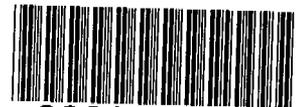


CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER



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ARIZONA CORPORATION COMMISSION

DATE: June 14, 2000

DOCKET NO.: W-02169A-99-0292

TO ALL PARTIES:

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

KEATON DEVELOPMENT COMPANY
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer 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:

JUNE 23, 2000

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

JUNE 27, 2000 AND JUNE 28, 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
KEATON DEVELOPMENT COMPANY FOR AN
7 EXTENSION OF ITS EXISTING CERTIFICATE
OF CONVENIENCE AND NECESSITY TO
8 PROVIDE WATER SERVICE IN LA PAZ
COUNTY, ARIZONA.

DOCKET NO. W-02169A-99-0292

DECISION NO. _____

OPINION AND ORDER

9 DATE OF HEARING: May 2, 2000
10 PLACE OF HEARING: Phoenix, Arizona
11 PRESIDING OFFICER: Alicia B. Grantham
12 APPEARANCES: Mr. Richard L. Sallquist, on behalf of Keaton Development Company;
13 Robert Metli, Staff Attorney, Legal Division, on behalf of the Utilities
14 Division of the Arizona Corporation Commission.

15 **BY THE COMMISSION:**

16 On June 10, 1999, Keaton Development Company ("Keaton" or "Applicant") filed with the
17 Arizona Corporation Commission ("Commission") an application for approval to extend its
18 Certificate of Convenience and Necessity ("Certificate") to provide water service for property in
19 Maricopa County, Arizona.

20 On August 9, 1999, Keaton filed an errata sheet stating the extension was requested for
21 property located in La Paz County, Arizona.

22 Keaton's application sought extension of its Certificate to include the West one-half of
23 Section 21, Township 5 North, Range 13 West, except the Southwest one-quarter of the Southwest
24 one-quarter, Gila and Salt River Base and Meridian, La Paz County, Arizona.

25 On December 13, 1999, the Commission Utilities Division ("Staff") filed its Staff Report
26 recommending conditional approval of Keaton's extension request.

27 Pursuant to Procedural Order dated April 4, 2000, the matter was set for hearing on May 2,
28 2000 in Phoenix, Arizona, and Applicant was ordered to publish notice of the application and hearing

1 thereon.

2 On April 21, 2000, the Applicant filed Affidavits of Publication with Docket Control.

3 On April 27, 2000, the La Paz County Board of Supervisors ("Board") filed a Motion to
4 Intervene ("Motion") in the above-captioned proceeding. There were no objections to the Motion,
5 and intervention was subsequently approved at the hearing.

6 On May 2, 2000, a full public hearing was convened before a duly authorized Administrative
7 Law Judge of the Commission at its offices in Phoenix, Arizona. Applicant entered an appearance by
8 its attorney. Staff appeared with counsel. The Board did not appear. At the conclusion of the
9 hearing, the matter was taken under advisement pending submission of a recommended Opinion and
10 Order to the Commission.

11 On May 11, 2000, Consumer Services Division of the Commission docketed four letters
12 received on April 25 and 27, 2000, from Keaton customers opposing the proposed extension.

13 On May 23, 2000, a Procedural Order was issued requesting Keaton's response to the
14 customer concerns. On June 5, 2000, Keaton filed its response. On June 14, 2000, Staff filed
15 comments to each of the responses submitted by Keaton.

16 * * * * *

17 Having considered the entire record herein and being fully advised in the premises, the
18 Commission finds, concludes and orders that:

19 **FINDINGS OF FACT**

20 1. Applicant is an Arizona corporation that provides water utility service to
21 approximately 400 customers in the vicinity of Salome, La Paz County, Arizona pursuant to authority
22 granted by the Commission in Decision No. 41705 (November 12, 1971).

23 2. On June 10, 1999, Keaton filed an application for an extension of its existing
24 Certificate in order to provide water service to an area described as the West one-half of Section 21,
25 Township 5 North, Range 13 West, except the Southwest one-quarter of the Southwest one-quarter,
26 Gila and Salt River Base and Meridian, La Paz County, Arizona.

27 3. On April 21, 2000, Applicant filed certification that it had provided notice of the
28 application and hearing thereon pursuant to the terms of the Procedural Order.

1 4. In its application, Keaton seeks to include a section of land that is contiguous to its
2 existing certificated area that is more fully described in Exhibit A which is attached hereto and
3 incorporated by reference. Keaton stated it received a request for service from the landowner of the
4 area described in Exhibit A.

5 5. Applicant stated that the property included in the proposed extension area will be
6 developed as an expansion of the existing airpark. This area will consist of private roads used as
7 taxiways to enable landowners to taxi from a nearby airstrip to their home. The streets will be under
8 county specifications, but will not be in County's rights-of-way, so a County franchise is not
9 necessary at this time.

10 6. Applicant stated that the facilities necessary to tie in from well site No. 2 over to the
11 air park will not be in public rights-of-way, so there is no need for a county franchise at this time.

12 7. Applicant estimates that a total of 126 customers will be served in the proposed
13 extension area described in Exhibit A.

14 8. Applicant does not have sufficient utility plant to provide water service to the areas
15 described herein. Applicant is not in compliance with the Rules of the Arizona Department of
16 Environmental Quality ("ADEQ"), due to inadequate storage. Keaton stated that the project
17 approved in Decision No. 61268 (November 25, 1998), consisting of the intertie of two systems and
18 the relocation of a 20,000 gallon storage tank, should be completed by July 15, 2000, bringing
19 Keaton's system into compliance.

20 9. Applicant indicated that it would obtain approval of construction for the above project
21 from ADEQ by September 30, 2000.

22 10. Applicant has not yet entered into any main extension agreements for the areas sought
23 to be certificated herein, but upon their execution, will file them with Staff for its approval.

24 11. Applicant is in compliance with the Commission's filing requirements, is current on
25 its sales taxes, however, it is not current on property taxes.

26 12. Applicant indicated upon receipt of funds from line extension agreements, it will
27 become current on the overdue property taxes.

28 13. Applicant indicated that it would charge its existing rates and charges to prospective

1 customers in the proposed extension area.

2 14. Staff received letters from four of Keaton's customers opposing the extension of the
3 Certificate. The customers complained that their water supply is periodically turned off for hours
4 and/or days without notification, and that it is difficult to reach anyone by phone or have phone calls
5 returned.

6 15. Keaton responded to the customer complaints by filing a response on June 5, 2000,
7 stating that during times of construction, water may sometimes be unavailable for a short duration.
8 Additionally, Keaton stated that voicemail will accept phone calls in the event no one is available in
9 the office.

10 16. Staff recommended, in its comments to Keaton's June 5, 2000 response, that at any
11 time Keaton has a planned outage, even for less than four hours, it should notify its customers.

12 17. Staff further recommended that Keaton have a 24-hour phone number for customer
13 use in case of emergencies.

14 18. Staff recommended that the Commission condition approval on Keaton filing a copy
15 of the developer's Adequacy Statement in the docket within 365 days from the effective date of the
16 Commission's Decision.

17 19. Staff recommended that the Commission condition approval of the application on
18 Keaton completing the plant improvements approved in Decision No. 61268 by September 1, 2000,
19 and filing a copy of its approval of construction from ADEQ by September 30, 2000.

20 20. Staff recommended that Keaton file a copy of its approval of construction from ADEQ
21 for the plant improvements approved in Decision No. 61268 before constructing any plant to serve
22 the extension area.

23 21. Staff further recommended that Keaton file documentation with the Commission by
24 September 30, 2000, indicating it is current on its property taxes.

25 22. Staff stated that Applicant is delivering water that does not exceed maximum
26 contaminant level violations and meets the Safe Drinking Water Quality Act requirements.

27 23. No other public service corporation or municipality owned utility is currently
28 providing water service in the proposed extension area.

CONCLUSIONS OF LAW

1
2 1. Keaton is a public service corporation within the meaning of Article XV of the
3 Arizona Constitution and A.R.S. §§ 40-301 and 40-302.

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

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

7 4. The public convenience and necessity require, and the public would benefit by, the
8 extension of Keaton's certificate so that its certificated area includes the areas more fully described in
9 Exhibit A.

10 5. Keaton is a fit and proper entity to provide water utility services in the proposed
11 extension area, which is more fully described in Exhibit A.

12 6. Staff's recommendations set forth in Findings of Fact Nos. 16, 17, 18, 19, 20 and 21
13 are reasonable and should be adopted.

14 ORDER

15 IT IS THEREFORE ORDERED that the application of Keaton Development Company to
16 extend its existing Certificate of Convenience and Necessity to the West one-half of Section 21,
17 Township 5 North, Range 13 West, except the Southwest one-quarter of the Southwest one-quarter,
18 of the Gila and Salt River Base and Meridian, La Paz County, Arizona, is hereby approved as
19 conditioned below.

20 IT IS FURTHER ORDERED that Keaton Development Company shall complete the plant
21 improvements approved in Decision No. 61268 by September 1, 2000, and file with the Commission
22 a copy of its approval of construction from ADEQ for the improvements by September 30, 2000.

23 IT IS FURTHER ORDERED that Keaton Development Company shall not construct any
24 plant to serve the extension area until the approval of construction from ADEQ for plant
25 improvements approved in Decision No. 61268 is filed with the Commission.

26 IT IS FURTHER ORDERED that Keaton Development Company shall become current on its
27 property taxes and file documentation with the Commission indicating payment by September 30,
28 2000.

1 IT IS FURTHER ORDERED that Keaton Development Company shall file with the
2 Commission a copy of the developer's Adequacy Statement within 365 days from the effective date
3 of the Commission's Decision.

4 IT IS FURTHER ORDERED that failure by Keaton Development Company to meet the
5 above conditions will result in the extension of its Certificate of Convenience and Necessity being
6 considered null and void without further Order of the Commission.

7 IT IS FURTHER ORDERED that when Keaton Development Company plans to interrupt
8 service for any period of time, it shall make a reasonable effort to notify its customers. In the event a
9 planned service interruption to perform maintenance and/or repairs shall be more than four hours,
10 Keaton shall comply with A.A.C. R14-2-407.C and notify its affected customers at least 24 hours in
11 advance of the scheduled date and estimated duration of the service interruption.

12 IT IS FURTHER ORDERED that Keaton Development Company shall maintain a 24-hour
13 phone number for customer use in case of emergencies.

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1 IT IS FURTHER ORDERED that Keaton Development Company shall charge its existing
2 rates and charges under its terms and conditions within the extension area.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5
6
7 CHAIRMAN

COMMISSIONER

COMMISSIONER

8
9 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
10 Secretary of the Arizona Corporation Commission, have
11 hereunto set my hand and caused the official seal of the
12 Commission to be affixed at the Capitol, in the City of Phoenix,
13 this ____ day of _____, 2000.

14 _____
BRIAN C. McNEIL
EXECUTIVE SECRETARY

15 DISSENT _____
16 AG:bbs

1 SERVICE LIST FOR:

KEATON DEVELOPMENT COMPANY

2 DOCKET NO.

W-02169A-99-0292

3 Richard L. Sallquist
4 SALLQUIST & DRUMMUND, P.C.
5 2525 East Arizona Biltmore Circle, Suite 117
6 Phoenix, AZ 85016

7 Marcus B. Matthew, President
8 KEATON DEVELOPMENT COMPANY
9 P.O. Box 905
10 Salome, AZ 85348

11 Lyn Farmer, Chief Counsel
12 Legal Division
13 ARIZONA CORPORATION COMMISSION
14 1200 West Washington Street
15 Phoenix, Arizona 85007

16 Deborah Scott, Director
17 Utilities Division
18 ARIZONA CORPORATION COMMISSION
19 1200 West Washington Street
20 Phoenix, Arizona 85007

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EXHIBIT A

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The West one-half of Section 21, Township 5 North, Range 13 West, except the Southwest one-quarter of the Southwest one-quarter, Gila and Salt River Base and Meridian, La Paz County, Arizona.