

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



0000000146

ARIZONA CORPORATION COMMISSION

DATE: March 15, 2000

DOCKET NO.: WS-02812A-98-0638 AND WS-02812A-98-0639

TO ALL PARTIES:

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

BIASI WATER COMPANY, INC.  
(CC&N/FINANCE)

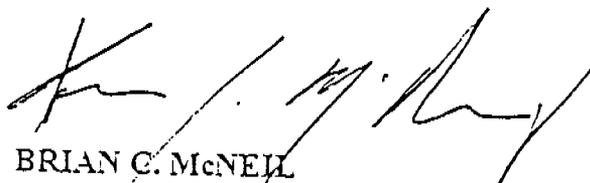
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MARCH 24, 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:

MARCH 28, 2000 AND MARCH 29, 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  
7 BIASI WATER COMPANY, INC. FOR A  
8 CERTIFICATE OF CONVENIENCE AND  
9 NECESSITY TO PROVIDE WASTEWATER  
10 SERVICE IN MOHAVE COUNTY, ARIZONA.

DOCKET NO. WS-02812A-98-0638

11 IN THE MATTER OF THE APPLICATION OF  
12 BIASI WATER COMPANY, INC. FOR  
13 AUTHORITY TO ISSUE COMMON STOCK AND  
14 A PROMISSORY NOTE(S) AND OTHER  
15 EVIDENCES OF INDEBTEDNESS PAYABLE AT  
16 PERIODS OF MORE THAN TWELVE MONTHS  
17 AFTER THE DATE OF ISSUANCE.

DOCKET NO. WS-02812A-98-0639

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

19 **OPINION AND ORDER**

20 DATE OF HEARING: December 14, 1999

21 PLACE OF HEARING: Phoenix, Arizona

22 PRESIDING OFFICER: Karen E. Nally

23 APPEARANCES: Mr. Richard L. Sallquist, SALLQUIST &  
24 DRUMMOND, P.C., on behalf of Biasi Water  
25 Company, Inc.; and

26 Mr. Robert Metli, Staff Attorney, Legal Division on  
27 behalf of the Utilities Division of the Arizona  
28 Corporation Commission.

**BY THE COMMISSION:**

On November 4, 1998, Biasi Water Company, Inc. ("Biasi", "Company", or "Applicant") filed an application for a Certificate of Convenience and Necessity ("Certificate") to provide wastewater service in Mohave County, Arizona.

On November 4, 1998, Biasi filed an application for authority to issue common stock and long-term debt and a request to consolidate the financing application with its pending Certificate application. On November 5, 1998, Biasi filed a substitute legal description, service area map, and a revised proposed tariff. The two filings were subsequently consolidated.

On January 14, 1999, Virgin Village Development Co., Inc. ("Virgin Village") filed a motion

1 to intervene. On January 26, 1999, Virgin Village's motion to intervene was granted.

2 On June 11, 1999, Biasi filed an amended legal description.

3 On September 10, 1999, Biasi filed an amended tariff.

4 Biasi published notice of the applications in the Mohave Valley Daily News on October 19,  
5 1999. Biasi also noticed its customers on December 7, 1999 with the record held open until  
6 December 28, 1999 for any public comments.

7 On December 14, 1999, a full public hearing was held before a duly authorized Hearing  
8 Officer of the Commission at its offices in Phoenix, Arizona. Biasi and Staff appeared with counsel  
9 and presented evidence with the Company accepting the Staff Report's analysis and  
10 recommendations. At the conclusion of the hearing, the matter was taken under advisement pending  
11 submission of a Recommended Opinion and Order to the Commission.

#### 12 Background

13 Biasi is currently certificated to provide water service in Mohave County.

14 Biasi's wastewater collection facilities and other construction were started in 1995 with the  
15 wastewater lagoon and related facilities completed in February 1998. Biasi began providing  
16 wastewater service in 1998 and presently serves 16 customers.

17 In its Certificate application, the Company provided a proposed tariff schedule, a five-year  
18 pro forma income statement, balance sheet, and a construction budget report. Staff reviewed and  
19 analyzed this financial information for accuracy and reasonableness to set initial rates and charges for  
20 Biasi's wastewater service.

21 Biasi is an "S" corporation. Its primary shareholders are Gary and Judy Biasi. Gary and Judy  
22 Biasi also own a company (Biasi Ranch Partnership dba Biasi Ranch Estates) that is currently  
23 developing land in Biasi's certificated area. According to the documentation provided by the  
24 Company, the wastewater plant was paid for by Biasi Ranch Estates, Biasi Custom Excavating, and  
25 Gary Biasi, personally.

#### 26 Rate Base

27 As part of Staff's review of Biasi's wastewater plant, Staff requested that Biasi provide  
28 documentation to support its wastewater plant. Wastewater utilities are required to keep their

1 accounting records in conformity with the National Association of Regulatory Utility Commissioners  
2 Uniform System of Accounts (NARUC UsaA) for wastewater utilities.

3 Based on this review, Staff's adjustments to the Company's proposed original cost rate base  
4 resulted in a net decrease of \$94,555, from \$371,913 to \$277,359, due to three major adjustments.

5 Staff decreased the Land and Land Rights' account by \$25,000, from \$25,000 to \$0. Staff  
6 asked Biasi to provide documentation and the Company was unable to provide documentation to  
7 support the original cost purchase price of the property.

8 Staff decreased the Structures and Improvements' account by \$99,587, from \$110,000 to  
9 \$10,413. The documentation provided by the Company only supported \$10,413 in Structures and  
10 Improvements. Therefore, Staff removed \$99,587 for unsupported structures and improvement plant  
11 purchases.

12 Staff decreased the Receiving Wells' account by \$44,273, from \$47,273 to \$3,000, and  
13 reclassified the remaining \$14,859 to Pumping Equipment due to the Company providing invoices to  
14 only support the total of \$17,589.

#### 15 Compliance

16 Staff reviewed the application and noted that the wastewater plant was already existing and  
17 was in total compliance with the Arizona Department of Environmental Quality ("ADEQ")  
18 requirements.

19 In paragraph 13 of the Findings of Fact Section of Decision No. 59259, dated August 30,  
20 1995, the Commission ordered that Biasi file a permanent rate application after 36 months of water  
21 utility operation to determine its financial condition and sustainability of the proposed rates for the  
22 water division.

23 On November 24, 1999, Biasi Water filed an application requesting an extension of the rate  
24 case filing date established in Decision No. 59259, dated August 30, 1995. Our December 10, 1999  
25 Procedural Order granted the extension and ordered Biasi Water to file a permanent rate application  
26 by June 30, 2000.

#### 27 Operating Revenues

28 The Company indicated that while the Sewer Division had been in operation for

1 approximately one year when Staff reviewed the application, the Company has not charged any of its  
2 customers the monthly minimum charge. Staff increased minimum charge revenues by \$1,440, from  
3 \$4,800 to \$6,240, to show the revenue that would have been generated had the Company billed the 13  
4 customers it had at the end of 1998.

5 Staff increased the Other Waste Water Revenues' account by \$75, from \$0 to \$75, to reflect  
6 the \$25 establishment charge revenue that would have been generated had the Company charged  
7 establishment fees for the three additional customers added during 1998.

#### 8 Allocation of Common Expenses Between the Water and Wastewater Division

9 During Staff's on-site inspection of the Company, Staff noted that the Company did not have  
10 a written method in which to allocate the common expenses between the water and sewer divisions.  
11 Those common expenses include (but are not limited to) office supplies expense, transportation  
12 expense, and insurance expense. Staff recommends that the Company develop an appropriate method  
13 in which to allocate its common expenses and employ this method before its next rate case.

#### 14 Operating Expenses

15 Staff made several adjustments that were offset by other adjustments to result in an increase in  
16 the Company's total operating expenses by \$108, from \$9,869 to \$9,977.

#### 17 Proposed Financing

18 Biasi is requesting approval of the issuance of \$38,780 of long-term debt and 350,000 shares  
19 of \$1.00 par value common shares (\$350,000). The proceeds of the financing will be used as  
20 working capital and to purchase the sewer plant from Gary and Judy Biasi, the shareholders of Biasi.

21 For ratemaking purposes, the wastewater plant proposed to be financed by debt and equity  
22 could also be accounted for as a contribution from the Biasis because they are developers in the area  
23 and they have already paid for the plant. Thus, the stock issuance would be a vehicle to move the  
24 plant onto the books and records of the Company as an investment by the Biasis. If the Commission  
25 finds the plant to be used and useful, the Company will receive revenues for depreciation on the plant  
26 and a return on the plant financed by the debt and equity issuances. However, if the sewer plant were  
27 accounted for by the Commission as a contribution rather than an investment, the Biasi sewer  
28 operations would have no rate base upon which to earn a return.

1 According to Staff, the Commission has allowed several other companies to finance initial  
2 assets with debt and equity such as Johnson Utilities and Interchange Water Company. Per Staff, the  
3 Commission has also made such a determination in Decision No. 59259, dated August 30, 1995,  
4 when it approved the issuance of common stock to finance Biasi Water's initial water utility assets.

5 Financing of Working Capital

6 A.R.S. Section 40-302A. forbids the application of financing proceeds to pay operating  
7 expenses unless specifically permitted in a Commission Order. Because Biasi will experience net  
8 operating losses in its initial years of operation, it will need working capital to make up the  
9 deficiencies and maintain positive cash flow. Staff believes that in this instance, the Commission  
10 should authorize the use of the financing proceeds for payment of operating expenses when  
11 necessary.

12 Terms of the Debt

13 The terms of the proposed \$38,780 of long-term debt to be issued by Biasi to Gary and Judy  
14 Biasi include an interest rate of 8.0 percent with a 10-year maturity. Interest only will be paid over  
15 the 10-year life of the note and a balloon payment equal to the entire principal will be due at the end  
16 of 10 years.

17 The terms of the loan allow Gary and Judy Biasi to receive a late charge of 5.0 percent if any  
18 payment is late and also allow them to receive all the principal and accrued interest, and attorney's  
19 fees plus interest at 12.0 percent upon default in the payment of principal or interest. Staff believes  
20 that these terms may be excessively advantageous to the Biasis because the Biasis, as owners and  
21 operators of the Company, have the authority to determine when the payments on the debt will be  
22 made.

23 Staff recommends approval of the issuance of \$38,780 of long-term debt and 350,000 shares  
24 of \$1.00 par value common shares (\$350,000). However, Staff recommends that the debt issued to  
25 the Biasis should not include default provisions or late payment fees.

26 On December 23, 1999, Biasi submitted a revised note intended to comply with Staff's  
27 recommendations. Staff reviewed the note and did not submit any amendments in the docket.

28 ...

Rate Design

Staff has reviewed and accepted the Company's proposed flat rate customer charge of \$40.00 for residential and \$60.00 for commercial customers. Staff concurs with the Company that its proposed commercial charge should be higher than its residential charge. Staff recognizes that some types of commercial wastewater, such as that produced by laundromats and meat processing plants, require more chemicals and is more costly to treat than typical residential wastewater.

These flat rates are anticipated to provide the Company sufficient revenues to cover the Company's operating expenses and to provide enough net profit to service its proposed long-term debt of \$38,780 in the Company's fifth year of operation when it is expected to have 80 customers.

Staff has reviewed and accepted all of the Company's proposed service charges.

Tariffs

In its application, Biasi, in addition to proposing certain rates and charges, has proposed tariffs containing terms and conditions for the provision of service. Staff recommends approval of the tariffs filed by Biasi on September 21, 1999. Staff further recommends that Biasi be ordered to file these tariffs with the Commission, in compliance with the Commission's order, within 30 days from the effective date of the Commission's Decision.

Biasi has not obtained its Mohave County Franchise for the use of the public rights-of-way for the construction of its sewer facilities. Therefore, Staff recommends that the Commission condition approval of the application on Biasi filing a copy of its franchise with the Commission within 365 days from the effective date of the Commission's Decision.

\* \* \* \* \*

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

FINDINGS OF FACT

1. On November 4, 1998, Biasi filed an application for a Certificate to provide wastewater service in Mohave County, Arizona and authority to issue common stock and long-term debt.

2. The Company also requested consolidation of the financing application with its

1 pending Certificate application which was subsequently granted.

2 3. On January 14, 1999, Virgin Village filed a motion to intervene, which was granted.

3 4. Biasi published notice of the applications and also noticed its customers of the pending  
4 applications.

5 5. Biasi's wastewater collection facilities and other construction were started in 1995  
6 with the wastewater lagoon and related facilities completed in February 1998.

7 6. Biasi began providing wastewater service in 1998 and presently serves 16 customers.

8 7. Staff's adjustments to the Company's proposed original cost rate base resulted in a net  
9 decrease of \$94,555, from \$371,913 to \$277,359.

10 8. Per Staff, the wastewater plant is in total compliance with ADEQ.

11 9. Staff's adjusted operating revenues are \$6,315 with adjusted operating expenses of  
12 \$9,977.

13 10. Staff has reviewed and accepted the Company's proposed flat rate customer charge of  
14 \$40.00 for residential service and \$60.00 for commercial customers.

15 11. The initial rates and charges for Applicant's wastewater treatment service as proposed  
16 by the Applicant and agreed to by Staff are as follows:

Proposed Rates

MONTHLY USAGE CHARGE:

19	General Residential Service (All Sizes)	\$40.00
20	Commercial Service (All Sizes)	\$60.00
21	Effluent Sales	N/A

SERVICE LINE INSTALLATION CHARGE:

23	Residential	\$400.00
24	Commercial	\$400.00

SERVICE CHARGE:

26	Establishment of Service	\$25.00
27	Establishment (After Hours)	\$50.00
27	Reestablishment of Service	(a)
28	Reestablishment of Service (After Hours)	(a) + \$40

1	Reconnection of Service (Delinquency)	\$50.00
2	Reconnection of Service (Delinquency and After Hours)	\$80.00
3	Deposit (Residential Customer)	(b)
3	Deposit (Non-residential Customer)	(c)
4	Deposit Interest	(d)
4	NSF Check	\$15.00
5	Deferred Payment	1.5%

6 (a) Months off the system times the minimum charge, per A.A.C. R14-2-603(D).

7 (b) Per Arizona Administrative Code A.A.C. R14-2-603(B)(7)(a).

8 (c) Per Arizona Administrative Code A.A.C. R14-2-603(B)(7)(b).

9 (d) Per Arizona Administrative Code A.A.C. R14-2-603(B)(3).

10 12. Biasi requested approval of the issuance of \$38,780 and 350,000 shares of \$1.00 par  
11 value common shares (\$350,000).

12 13. Staff recommends approval of the issuance of \$38,780 of long-term debt and 350,000  
13 shares of \$1.00 par value common shares (\$350,000).

14 14. Staff also recommends the following:

15 (a) Staff recommends that the Commission condition approval of the application  
16 on Biasi filing a copy of its franchise with the Commission within 365 days  
17 from the effective date of the Commission's Decision.

18 (b) Staff recommends approval of its proposed rates and charges as shown on  
19 Schedule 3 of the Staff Report.

20 (c) Staff further recommends approval of the tariffs filed by Biasi on September  
21 21, 1999.

22 (d) Staff further recommends that Biasi file with the Commission, within 30 days  
23 from the effective date of the Commission's Decision, its tariffs incorporating  
24 the rates and charges authorized therein.

25 (e) Staff further recommends that Biasi develop an appropriate method in which to  
26 allocate its common expenses and employ this method before its next rate case.

27 (f) Staff further recommends approval of the composite depreciation rate of 4.14  
28 as shown in the Staff Report.

(g) Staff further recommends approval of the issuance of \$38,780 of long-term  
debt and 350,000 shares of \$1.00 par value common shares be approved with  
the condition that the terms associated with collection of a late charge,  
attorneys' fees and interest at 12.0 percent upon default be removed from the  
debt provisions.

(h) Staff further recommends in this specific instance that the Commission's Order  
contain specific language authorizing use of the financing proceeds as working  
capital for the payment of operating expenses when necessary.

**CONCLUSIONS OF LAW**

1  
2 1. Applicant is a public service corporation within the meaning of Article XV of the  
3 Arizona Constitution and A.R.S. §§ 40-281, 40-282, 40-301, and 40-302.

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

6 3. Notice of the application was provided in the manner prescribed by law.

7 4. There is a public need and necessity for water service in the proposed extension area  
8 as set forth in Exhibit A.

9 5. Applicant is a fit and proper entity to receive a Certificate.

10 6. The rates and charges authorized hereinbelow are just and reasonable and should be  
11 approved.

12 7. Staff's recommendations as set forth in Findings of Fact Nos. 11, 13, and 14 are  
13 reasonable and should be adopted.

14 **ORDER**

15 IT IS THEREFORE ORDERED that the application of Biasi Water Company, Inc. for a  
16 Certificate of Convenience and Necessity for wastewater utility service for areas located in Section  
17 32, Township 41 North, Range 15 West, Section 33, Township 41 North, range 15 West, and Section  
18 29, Township 41 North, Range 15 West, as described in Exhibit A, be and is hereby granted.

19 IT IS FURTHER ORDERED that approval of the application of Biasi Water Company, Inc.  
20 for a Certificate of Convenience and Necessity for wastewater utility service for the areas described  
21 in Exhibit A, be conditioned upon Biasi Water Company, Inc. filing a copy of its franchise with the  
22 Commission within 365 days from the effective date of this Decision, and failure to comply within  
23 the specified time shall cause the Certificate to be deemed denied without further order of the  
24 Commission.

25 IT IS FURTHER ORDERED that Biasi Water Company, Inc. shall notify its customers of the  
26 rates and charges authorized herein and the effective date of same by means of an insert in its next  
27 regular monthly billing.

28 IT IS FURTHER ORDERED that Biasi Water Company, Inc. shall file with the Director of

1 the Utilities Division within 60 days from the effective date of this Decision a copy of the notice it  
2 sends to its customers of the rates and charges approved herein.

3 IT IS FURTHER ORDERED that Biasi Water Company, Inc. is hereby directed to comply  
4 with the Staff recommendations set forth in Findings of Fact Nos. 11, 13, and 14.

5 IT IS FURTHER ORDERED that Biasi Water Company, Inc. is hereby authorized to issue  
6 \$38,780 of long-term debt with the modifications noted above and 350,000 shares of \$1.00 par value  
7 common shares.

8 IT IS FURTHER ORDERED that Biasi Water Company, Inc. in this specific instance is  
9 hereby authorized to use financing proceeds as working capital to pay operating expenses with Biasi  
10 Water Company, Inc. ordered to file quarterly reports with the Director of the Utilities Division  
11 specifying the amount(s) and purposes of any operating expenses funded with any financing  
12 proceeds.

13 IT IS FURTHER ORDERED that Biasi Water Company, Inc. is hereby authorized to engage  
14 in any transactions and to execute any documents necessary to effectuate the authorization granted  
15 hereinabove.

16 IT IS FURTHER ORDERED that such authority is expressly contingent upon Biasi Water  
17 Company, Inc.'s use of the proceeds for the purposes set forth in its application.

18 IT IS FURTHER ORDERED that approval of the financing set forth hereinabove does not  
19 constitute or imply approval or disapproval by the Commission of any particular expenditure of the  
20 proceeds derived thereby for purposes of establishing just and reasonable rates.

21 ...  
22 ...  
23 ...  
24 ...  
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27 ...  
28 ...

1 IT IS FURTHER ORDERED that Biasi Water Company, Inc. shall file copies of all executed  
2 financing documents setting forth the terms of the financing within 30 days of obtaining such  
3 financing.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6  
7  
8 CHAIRMAN

COMMISSIONER

COMMISSIONER

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

15 \_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

16 DISSENT \_\_\_\_\_  
17 KEN:bbs

1 SERVICE LIST FOR: BIASI WATER COMPANY, INC.  
2 DOCKET NO. WS-02812A-98-0638 AND WS-02812A-98-0639

3  
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**BIASI WATER COMPANY, INC.**  
**DOCKET NO. WS-2812-98-638**  
**AMENDED LEGAL DESCRIPTION FOR WASTEWATER SERVICE**

EXHIBIT A

Parcel #1

The North  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of Section 32, Township 41 North, Range 15 West, of the Gila and Salt River Base and Meridian, Mohave County, Arizona.

Area being 80 acres, more or less.

Parcel #2

BEGINNING at the NW corner of the SW  $\frac{1}{4}$  of Section 33, Township 41 North, Range 15 West;

THENCE East along the  $\frac{1}{4}$  section line to the center line of Mohave County Route 91;

THENCE NE along said center line to the North section line of said Section 33;

THENCE West along said section line to the NW corner of said Section 33;

THENCE South along the section line to the POINT OF BEGINNING.

Parcel #3

COMMENCING at the Northeast corner of Section 32, Township 41 North, Range 15 West;

THENCE South along the East line of Section 32, a distance of 1,320.00 feet to THE TRUE POINT OF BEGINNING;

THENCE continuing South along the East line of said Section 32, a distance of 2,310.00 feet to a point;

THENCE West along a line parallel to the North line of said Section 32, a distance of 1,320.00 feet to a point;

THENCE North  $35^{\circ}$  West, a distance of 2,301.00 feet to a point on the mid-section line;

THENCE North along the mid-section line, a distance of 425.00 feet more or less to a point which is 2,640.00 feet Westerly of the TRUE POINT OF BEGINNING.

THENCE East parallel to the North line of said Section 32, a distance of 2,640.00 feet, more or less, to the TRUE POINT OF BEGINNING.

Area being 111.5 acres, more or less.

Parcel #4

Section 29, Township 41 North, Range 15 West.

Area being 640 acres, more or less.