

RENZ D. JENNINGS
CHAIRMAN

MARCIA WEEKS
COMMISSIONER

ARL J. KUNASEK
COMMISSIONER



0000000209

ARIZONA CORPORATION COMMISSION

DATE: AUGUST 9, 1995

DOCKET NO: U-2812-94-350 and U-2812-94-349

TO ALL PARTIES:

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

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

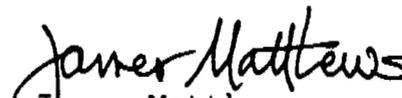
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 5:00 p.m. on or before:

AUGUST 18, 1995

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:

AUGUST 29, 1995 and AUGUST 30, 1995

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


James Matthews
EXECUTIVE SECRETARY

JM
Enc.
cc: ALL PARTIES

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 RENZ D. JENNINGS
CHAIRMAN
3 MARCIA WEEKS
COMMISSIONER
4 CARL J. KUNASEK
COMMISSIONER

5 IN THE MATTER OF THE APPLICATION)
6 OF BIASI WATER COMPANY, INC. FOR)
7 A CERTIFICATE OF CONVENIENCE AND)
8 NECESSITY TO PROVIDE WATER AND)
WASTEWATER SERVICE IN MOHAVE)
COUNTY, ARIZONA.)

DOCKET NO. U-2812-94-350

9 IN THE MATTER OF THE APPLICATION)
10 OF BIASI WATER COMPANY, INC. FOR)
11 AUTHORITY TO ISSUE COMMON STOCK,)
12 A PROMISSORY NOTE AND OTHER)
EVIDENCE OF INDEBTEDNESS PAYABLE)
AT PERIODS OF MORE THAN TWELVE)
MONTHS AFTER THE DATE OF ISSUANCE.)

DOCKET NO. U-2812-94-349

DECISION NO. _____

OPINION AND ORDER

13 DATE OF HEARING: June 14, 1995

14 PLACE OF HEARING: Phoenix, Arizona

15 PRESIDING OFFICER: Marc E. Stern¹

16 APPEARANCES: SALLQUIST & DRUMMOND, P.L.L.C., by Mr. Richard L.
17 Sallquist, on behalf of Biasi Water Company, Inc.; and
18 Ms. Karen E. Nally, Staff Attorney, on behalf of the Utilities
19 Division of the Arizona Corporation Commission.

20 **BY THE COMMISSION:**

21 On October 5, 1994, Biasi Water Company, Inc. ("Biasi" or "Company") filed with the
22 Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and
23 Necessity ("CC&N" or "Certificate") to provide water and sewer services, and an application for
24 approval of financing (collectively, "Applications").

25 On December 22, 1994, February 9, February 22, and March 22, 1995, Biasi filed amendments
26 to its Applications. Among the amendments was Biasi's withdrawal of its application for a CC&N
27 to provide sewer service.

28 On April 5, 1995, the Commission's Utilities Division ("Staff") filed a Motion to Consolidate

¹ The Recommended Opinion and Order was written by Scott S. Wakefield.

1 the Applications for purposes of hearing. On April 10, 1995, the Commission issued a Procedural
2 Order consolidating the above-referenced dockets.

3 On April 21, 1995, Staff filed its Staff Report, which recommended approval of the
4 Applications after hearing. On April 24, 1995, the Commission issued a Procedural Order setting a
5 hearing on the above-captioned matters.

6 On June 14, 1995, a full public hearing was held before a duly authorized Hearing Officer of
7 the Commission at its offices in Phoenix, Arizona. Biasi and Staff appeared with counsel and
8 presented evidence. At the conclusion of the hearing, the matter was taken under advisement pending
9 submission of a Recommended Opinion and Order to the Commission.

10 DISCUSSION

11 Biasi is an Arizona corporation which proposes to provide water utility service near Littlefield,
12 Mohave County, Arizona. Biasi is owned by Gary and Judi Biasi. Biasi proposes to construct
13 production facilities capable of serving approximately 500 customers in new developments in the
14 proposed certificated area. The proposed certificated area includes 720 acres which is currently a
15 farm owned by Gary Biasi and his father, approximately 160 acres located east of the farm consisting
16 of residences on parcels of one to five acres, and approximately 80 acres located directly south of the
17 farm which is currently being developed by a third party. Gary Biasi is developing the 720 acre farm
18 for residential housing.

19 The first phase of construction of the water system would provide service to 80 acres of what
20 is currently Mr. Biasi's farm, and the adjacent non-farm parcels. Biasi's construction budget includes
21 the costs of installing 110 service lines as part of its first two phases of development. Biasi projects
22 it will serve 15 residential customers in its first year of operations, and an additional 10 customers
23 each year during the first five years. Biasi proposes a hook-up fee of \$1,000 for each new lot to
24 which it provides service.² Biasi claims that the hook-up fee approximates the capital investment
25 required to serve one customer. Biasi further requests authorization from the Commission to issue
26 stock to finance construction and the initial operations of the system.

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² The proposed hook-up fee includes a base fee of \$715 and a gross-up tax of \$285.

1 Staff recommended that Biasi's hook-up fee be denied. Staff found that Biasi's proforma
2 income statement treats the hook-up fee as operating revenue to recover operating costs. In response
3 to a Staff data request, Biasi failed to provide detailed data justifying the \$1,000 hook-up fee.

4 Staff's projected income statement forecasted lower costs than Biasi projected, partially due
5 to elimination of costs associated with sewer facilities, which Biasi originally intended to develop.
6 Biasi suspended its plans to provide sewer services, and amended its application accordingly, although
7 projected insurance expenses were not reduced to reflect the fact that the sewer facilities would not
8 be constructed. In addition, Biasi mistakenly recognized service line/meter installation fees as
9 revenues and expenses, where those fees should be capitalized. Staff's projected cash flows, with
10 lower expenses, proper recognition of service line/meter installation fees and omitting hook-up fees
11 (Schedule 4 to Staff Report, Exhibit S-1), are markedly higher than cash flows projected by Biasi
12 (Schedule C to Biasi's application, Exhibit A-1). Staff therefore believes that the hook-up fee is
13 unnecessary.

14 In the past, it has been the Commission's general policy to prohibit hook-up fees to new
15 customers. Recently, however, the Commission has authorized at least two other public service
16 corporations to charge hook-up fees to customers in newly served areas. Biasi cited Las Quintas
17 Serenas Water Company ("Las Quintas"), Decision No. 58839 (November 2, 1994) and Canada Hills
18 Water Company ("Canada Hills"), Decision No. 59150 (July 20, 1995) as two recent matters in which
19 the Commission approved hook-up fees.

20 In both the Las Quintas and Canada Hills decisions, the Commission examined the issue of
21 existing water companies expanding service to previously undeveloped areas within their certificated
22 areas. In those cases, Staff recommended that the Commission approve the hook-up fees in order to
23 shift the risks of expansion of the applicants' backbone facilities from the existing customers and the
24 applicants to the customers who will be served by the expansion.

25 Biasi's reliance on the precedence of the Las Quintas and Canada Hills decisions is misplaced,
26 in light of the start-up nature of Biasi's water service. The risks of the initial development of the
27 water system rests on Biasi's shareholders. Further, the hook-up fee is unnecessary under the rate
28 schedule recommended by Staff. We therefore reject Biasi's proposed hook-up fees.

* * * * *

1
2 Having considered the entire record herein and being fully advised in the premises, the
3 Commission finds, concludes, and orders that:

4 **FINDINGS OF FACT**

5 1. Biasi is an Arizona corporation which intends to provide public water utility service
6 to an area of approximately 880 acres near Littlefield, Mohave County, Arizona, described in Exhibit
7 A, which is attached hereto and incorporated herein by reference.

8 2. On October 5, 1994, Biasi filed with the Commission an application for a CC&N to
9 provide water and sewer services, and an application for approval of financing. On December 22,
10 1994 and February 9, February 22, and March 22, 1995, Biasi amended its applications. Among the
11 amendments was Biasi's withdrawal of its application for a CC&N to provide sewer service.

12 3. On April 5, 1995, Staff filed a Motion to Consolidate the CC&N and the financing
13 applications. By Procedural Order dated April 10, 1995, the above-referenced dockets were
14 consolidated.

15 4. On April 21, 1995, Staff filed its Staff Report, recommending approval of the
16 applications and containing a number of other recommendations.

17 5. On April 24, 1995, the Commission issued a Procedural Order setting a hearing on June
18 14, 1995.

19 6. Mr. Gary L. Biasi, president of Biasi, is a certified operator and will run and manage
20 the utility.

21 7. Biasi's water system will consist of one 630-foot deep well, one 250-foot deep well,
22 one 100,000 storage tank and a 20-HP submersible well pump.

23 8. Biasi will initially install service lines to 110 lots as part of its first two phases of
24 development, and upon completion, its production facilities will be sufficient to serve approximately
25 500 residential customers.

26 9. The proposed certificated area will be developed with modular and frame construction
27 homes.

28 10. The nearest water company to Biasi is Beaver Dam Water Company, approximately

1 1½ miles away, which does not have adequate facilities to serve Biasi's projected customer base.

2 11. The Company's proposed rates as stated in the Application, and Staff's proposed rates
3 are as follows:

	Proposed Charges	
	<u>Company</u>	<u>Staff</u>
<u>MONTHLY USAGE CHARGE:</u>		
5/8" x 3/4" Meter	\$ 15.00	\$ 15.00
3/4" Meter	15.00	20.00
1" Meter	25.00	40.00
1 1/2" Meter	N/A	75.00
2" Meter	80.00	120.00
3" Meter	N/A	225.00
4" Meter	250.00	375.00
6" Meter	500.00	750.00
Excess of Minimum- per 1,000 gallons	\$1.50	\$3.00
Gallons included in minimum	-0-	-0-

10
11 Construction and standpipe commodity charge is proposed as \$3.00 per 1,000 gallons in excess of
12 minimum. Staff proposes \$4.50.

13
14 SERVICE LINE AND METER INSTALLATION CHARGES:

5/8" x 3/4" Meter	\$ 285.00	\$ 285.00
3/4" Meter	320.00	320.00
1" Meter	360.00	360.00
1 1/2" Meter	545.00	545.00
2" Meter	915.00	915.00
3" Meter	1,150.00	1,150.00
4" Meter	1,885.00	1,885.00
6" Meter	3,780.00	3,780.00

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19 SERVICE CHARGES:

Establishment	\$25.00	\$25.00
Establishment (After Hours)	50.00	50.00
Reestablishment (Within 12 Months)	(a)	(a)
Reestablishment (After Hours, within 12 Months)(b)	40.00	40.00
Reconnection (Delinquent)	Cost(c)	50.00
Reconnection (After Hours, Delinquent)(d)	30.00	80.00
Meter Moving at Customer Request	Cost(e)	Cost(e)
Meter Test (If Correct)	25.00	25.00
Meter Re-Read (If Correct)	5.00	5.00
Deposit (Residential Customer)	(f)	(f)
Deposit Interest	6.00%	6.00%
NSF Check	\$10.00	\$15.00
Deferred Payment (Per Month)	1.50%	1.50%
Later Payment Charge (Per Month)	1.50%	1.50%
Impact Fee for New Service	\$1,000.00	\$ 0.00

- 1 (a) Months off system times monthly minimum.
 2 (b) After hours charge in addition to normal charge.
 3 (c) Cost is actual cost of physical work performed. No charge if no physical work
 4 performed.
 5 (d) Company proposed after-hours charge in addition to normal charge. Staff
 6 proposed a flat fee for reconnection of disconnection due to delinquency and for
 7 reconnection after hours.
 8 (e) Cost to include labor, materials, other charges, overhead and all applicable taxes.
 9 (f) Per A.A.C. R14-2-403(B).

10 OTHER RATES AND CHARGES:

11 In addition to the collection of regular rates, the Company may collect from its customers a
 12 proportionate share of any privilege, sales or use tax (per Rule 14-2-409(D)(5)).

13 12. The Company proposes to issue 381,092 shares of one dollar par value common stock
 14 to fund construction of the water system.

15 13. In addition to recommending approval of the applications, Staff recommended that:

- 16 (a) the Commission condition approval of the CC&N application on Biasi filing,
 17 within 365 days from the effective date of the Commission's Decision, copies
 18 of the Developer's Arizona Department of Water Resources Water Adequacy
 19 Statement, Biasi's Arizona Department of Environmental Quality Approval to
 20 Construct its system, Mohave County Franchise and clear title to the two well
 21 sites in the name of Biasi;
 22 (b) the Commission approve the Cross-Connection or Backflow Tariff proposed by
 23 Staff in Exhibit 1 to the Staff Report;
 24 (c) the Commission reserve the right to determine any future rate base treatment
 25 of incurred plant costs in conjunction with a permanent rate case;
 26 (d) the Commission order Biasi to post a \$10,000 performance bond with the
 27 Commission within 365 days from the effective date of the Commission's
 28 Decision, but in no event later than it provides service to its first customer.
 The performance bond should remain in effect until Biasi reaches viable
 operation, as determined by Staff, or it is sold to another utility or municipality;
 (e) the Commission order Biasi to notify the Commission within fifteen (15) days
 after it begins serving its first customer;
 (f) the Commission order Biasi to file a permanent rate application after 36 months
 of operation to determine its financial condition and sustainability of the
 proposed rates; and
 (g) the Commission approve the Company's proposed equity financing and that it
 be authorized to issue up to 391,092³ shares of \$1 par value stock (a maximum
 of \$391,092).

³ Biasi's financing application sought approval for 381,092 shares. Staff recommended approval of an additional 10,000 shares to fund the performance bond.

1 Certificate of Convenience and Necessity authorizing it to construct, maintain and operate facilities
2 in order to provide water service to the public in the area more fully described in Exhibit A, be, and
3 hereby is, granted, conditioned on Biasi Water Company, Inc. filing with the Arizona Corporation
4 Commission, within 365 days from the effective date of this Decision, copies of the Developer's
5 Arizona Department of Water Resources Water Adequacy Statement, Biasi Water Company, Inc.'s
6 Arizona Department of Environmental Quality Certificate of Approval to Construct its system, the
7 Mohave County Franchise and clear title to the two well sites in the name of Biasi Water Company,
8 Inc.

9 IT IS FURTHER ORDERED that on or before August 31, 1995, Biasi Water Company, Inc.
10 shall file a tariff containing the following rates and charges for water service:

11 MONTHLY USAGE CHARGE:

12	5/8" x 3/4" Meter	\$ 15.00
	3/4" Meter	20.00
13	1" Meter	40.00
	1 1/2" Meter	75.00
14	2" Meter	120.00
	3" Meter	225.00
15	4" Meter	375.00
	6" Meter	750.00

16 Gallonage Charge per 1,000 gallons \$3.00

17 Construction and standpipe gallonage charge per 1,000 gallons \$4.50

18 SERVICE LINE AND METER INSTALLATION CHARGES:
19 (Refundable pursuant to A.A.C. R14-2-405)

20	5/8" x 3/4" Meter	\$ 285.00
	3/4" Meter	320.00
21	1" Meter	360.00
	1 1/2" Meter	545.00
22	2" Meter	915.00
	3" Meter	1,150.00
23	4" Meter	1,885.00
	6" Meter	3,780.00

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SERVICE CHARGES:

Establishment	\$25.00
Establishment (After Hours)	50.00
Reestablishment (Within 12 Months)	*
Reestablishment (After Hours, within 12 Months)**	40.00
Reconnection (Delinquent)	50.00
Reconnection (After Hours, Delinquent)	80.00
Meter Moving at Customer Request	***
Meter Test (If Correct)	25.00
Meter Re-Read (If Correct)	5.00
Deposit (Residential Customer)	****
Deposit Interest (Per Annum)	6.00%
NSF Check	\$15.00
Deferred Payment (Per Month)	1.50%
Later Payment Charge (Per Month)	1.50%

* Months off system times monthly minimum.

** After hours charge in addition to normal charge.

*** Cost to include labor, materials, other charges, overhead and all applicable taxes.

**** Per A.A.C. R14-2-403(B).

IT IS FURTHER ORDERED that the rates and charges authorized herein shall be effective for all service rendered on and after September 1, 1995 until otherwise ordered by the Arizona Corporation Commission.

IT IS FURTHER ORDERED that Biasi Water Company, Inc. shall file a schedule with its tariff for the collection of the proportionate share of any privilege, sales or use tax, in accordance with A.A.C. R14-2-409(D)(5).

IT IS FURTHER ORDERED that Biasi Water Company, Inc. shall post a \$10,000 performance bond and file it with the Arizona Corporation Commission on the earlier of 365 days from the effective date of this Decision or the date it provides service to its first customer.

IT IS FURTHER ORDERED that the performance bond shall remain in effect until Biasi Water Company, Inc. reaches viable operation, as determined by the Arizona Corporation Commission's Utilities Division Staff, or is sold to another utility or a municipality, at which time Biasi Water Company, Inc. may make application for its return.

IT IS FURTHER ORDERED that Biasi Water Company, Inc. shall notify the Arizona Corporation Commission in writing within fifteen (15) days after it begins serving its first customer.

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1 IT IS FURTHER ORDERED that Biasi Water Company, Inc. shall file within thirty days from
2 the effective date of this Decision a "Cross-Connection or Backflow Tariff" as described in and
3 attached as Exhibit 1 to the Staff Report.

4 IT IS FURTHER ORDERED that in the event Biasi Water Company, Inc. does not timely file
5 the documents required by the preceding ordering paragraphs, its application for a Certificate of
6 Convenience and Necessity shall be deemed to be denied, without further order by the Commission.

7 IT IS FURTHER ORDERED that Biasi Water Company, Inc. shall maintain its books and
8 records in accordance with the National Association of Regulatory Utility Commissioners Uniform
9 System of Accounts.

10 IT IS FURTHER ORDERED that Biasi Water Company, Inc. shall file a permanent rate
11 application within thirty-six (36) months from the date it provides service to its first customer.

12 IT IS FURTHER ORDERED that Biasi Water Company, Inc. is hereby authorized to issue
13 391,092 shares of one dollar par value common stock to finance its capital structure and to finance
14 the cost of its performance bond.

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

18 IT IS FURTHER ORDERED that such authority shall be expressly contingent upon Biasi
19 Water Company, Inc.'s use of the proceeds for the purposes set forth in the financing application and
20 for funding the above ordered performance bond.

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1 IT IS FURTHER ORDERED that approval of the financing set forth herein does not constitute
2 or imply approval or disapproval by the Arizona Corporation Commission of any particular
3 expenditure of the proceeds derived thereby for purposes of establishing just and reasonable rates.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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8 CHAIRMAN COMMISSIONER COMMISSIONER

9 IN WITNESS WHEREOF, I, JAMES MATTHEWS, Executive Secretary of the
10 Arizona Corporation Commission, have hereunto set my hand and caused the official
11 seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____
12 day of _____, 1995.

13 JAMES MATTHEWS
14 EXECUTIVE SECRETARY

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16 DISSENT _____
17 SSW:dap
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1 SERVICE LIST FOR: BIASI WATER COMPANY, INC.
2 DOCKET NOS: U-2812-94-350 AND U-2812-94-349

3 Richard L. Sallquist
4 SALLQUIST & DRUMMOND, P.L.L.C.
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11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Gary Yaquinto, Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
16 1200 West Washington Street
17 Phoenix, Arizona 85007

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EXHIBIT A
LEGAL DESCRIPTION
SERVICE AREA
BIASI WATER

PARCEL #1

The North 1/2 of the Northeast 1/4 of Section 32, Township 41 North, Range 15 West.

Area being 80 acres more or less.

PARCEL #2

The Northwest 1/4 of Section 33, Township 41 North, Range 15 West.

Area being 160 acres more or less.

PARCEL #3

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

THENCE South along the East line of Section 32, a distance of 1,320 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° 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.