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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

Arizona Corporation Commission

DOCKETED

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

AUG 10 2004

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF  
BEARDSLEY WATER COMPANY TO EXTEND  
ITS CERTIFICATE OF CONVENIENCE AND  
NECESSITY.

DOCKET NO. W-02074A-04-0241

DECISION NO. 67160

OPINION AND ORDER

DATE OF HEARING:

June 22, 2004

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Sallquist & Drummond, P.C. by Richard L.  
Sallquist, on behalf of Beardsley Water  
Company; and

Jason Gellman, Staff Attorney, Legal Division,  
on behalf of the Utilities Division of the Arizona  
Corporation Commission.

BY THE COMMISSION:

On March 30, 2004, Beardsley Water Company ("Company" or "Applicant"), filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide public water utility service to various parts of Maricopa County, Arizona.

On April 29, 2004, the Commission's Utilities Division ("Staff") issued a notice that the application had met the sufficiency requirements of A.A.C. R14-2-411(C).

On April 30, 2004, by Procedural Order, a hearing was scheduled for June 22, 2004.

On May 28, 2004, the Company filed certification that it had provided notice of the application and hearing in accordance with the Commission's Procedural Order.

On June 7, 2004, Staff filed its Staff Report which recommends conditional approval of the Application.

On June 22, 2004, a full public hearing was convened before a duly authorized Administrative

1 Law Judge of the Commission at its offices in Phoenix, Arizona. The Company and Staff appeared  
 2 with counsel. At the conclusion of the hearing, the matter was taken under advisement pending  
 3 submission of a Recommended Opinion and Order to the Commission.

4 \* \* \* \* \*

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

7 **FINDINGS OF FACT**

8 1. Pursuant to authority granted by the Commission in Decision No. 40034 (May 26,  
 9 1969), the Company is an Arizona corporation which is engaged in the business of providing water  
 10 service to approximately 214 customers northwest of Phoenix, Maricopa County, Arizona.

11 2. On March 30, 2004, the Company filed an application for an extension of its  
 12 Certificate in various parts of Maricopa County to provide service to an area which is marked Exhibit  
 13 A, attached hereto and incorporated herein by reference.

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

15 4. On June 7, 2004, Staff filed its Staff Report recommending conditional approval of the  
 16 application following a hearing.

17 5. The Company has been requested to provide water service to approximately 160 acres  
 18 of land owned by the developer of Patton Place Estates, L.L.C. ("LLC") of the Patton Place  
 19 subdivision, which is to be a residential development. Patton Place is contiguous to Applicant's  
 20 existing service area.

21 6. Applicant projects that future customer growth will result in approximately 134  
 22 residential connections in the subdivision area in the next five years.

23 7. To provide service to customers in the extension area, Applicant will utilize one (PWS  
 24 ID# 07-517) of its four existing public water systems with a production capacity of 160 gallons of  
 25 water per minute ("GPM") and 120,000 gallons of storage capacity. These facilities are currently  
 26 being used to serve 68 existing customers and are adequate to service almost all of the prospective  
 27 customers in the extension area described in Exhibit A. Additionally, the Company's other three  
 28 water systems produce more than 240 GPM and have 280,000 gallons of storage capacity.

1 8. To meet the needs of its expanding service area, Applicant is also planning the  
2 addition of additional storage and production capacity when needed.

3 9. No other municipal or public service corporations provide water service in the  
4 proposed service area described in Exhibit A.

5 10. The Company will provide Staff with a copy of the proposed main extension  
6 agreement, a portion of which will be financed through a refundable advance from the developer of  
7 Patton Place.

8 11. The Company will file a copy of its expanded Maricopa County franchise which  
9 includes the extension area described in Exhibit A when it is issued by the Maricopa County Board of  
10 Supervisors.

11 12. The Company will provide service to the extension area at its existing rates and  
12 charges on file with the Commission.

13 13. At the hearing, the Company placed in evidence a copy of its Curtailment Tariff for  
14 Staff's approval.

15 14. Staff reviewed the water production and storage capacity of Applicant and believes  
16 that the Company has or will have adequate facilities and the technical expertise to provide service in  
17 the requested extension area.

18 15. According to the Staff Report, the Company is not in full compliance with the rules of  
19 the Maricopa County Environmental Services Department ("MCESD"), but is providing water which  
20 meets the requirements of the Safe Drinking Water Act and the MCL requirements. The Company's  
21 water from its four wells does not exceed the new maximum standard for arsenic. However, MCESD  
22 in its April 2004 Compliance Status Reports ("CSR") stated that all four of Applicant's systems had  
23 minor monitoring and reporting deficiencies.<sup>1</sup>

24 16. The Company is current on the payment of its property and sales taxes, and is in  
25 compliance with its filing requirements with the Commission.

26 17. Staff believes that there is a public need and necessity for water service to the  
27

28 <sup>1</sup> During the hearing, the Company's witness indicated that the Company would late-file CSRs which would prove that Applicant is now in compliance with MCESD monitoring.

1 requested extension area and that the issuance of an extension to Applicant's Certificate is in the  
2 public interest.

3 18. Staff is recommending that the Commission approve the Company's application  
4 subject to the following conditions:

- 5 1. that the Company charge its existing rates and charges for the proposed  
6 extension area;
- 7 2. that the Company file, within 365 days of the effective date of this  
8 Decision, with the Director of the Commission's Utilities Division, a copy  
9 of an executed main extension agreement;
- 10 3. that the Company file, within 365 days of the effective date of this  
11 Decision, with the Director of the Utilities Division, a copy of the  
12 developer's Certificate of Assured Water Supply for the proposed  
13 extension area;
- 14 4. that the Company file, within 365 days of the effective date of this  
15 Decision, with the Director of the Utilities Division, a copy of the  
16 Maricopa County Franchise which includes the proposed extension area;  
17 and
- 18 5. that the Company file, with the Director of the Utilities Division,  
19 documentation demonstrating all monitoring and reporting has been  
20 accomplished per the requirements of the MCESD prior to this Decision  
21 becoming effective.<sup>2</sup>

22 19. Staff further recommends that the Commission's Decision granting the extension of  
23 Applicant's certificated service area be considered null and void without further Order from the  
24 Commission should the Company fail to timely file the documentation required by the second, third  
25 and fourth conditions of Findings of Fact No. 18 above within the time specified.

26 20. Staff's recommendations in Findings of Fact Nos. 18 and 19 are reasonable with the  
27 express understanding that all four of the Company's public water systems must achieve  
28 "compliance" status with MCESD requirements before this Decision becomes effective.

### CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the  
Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

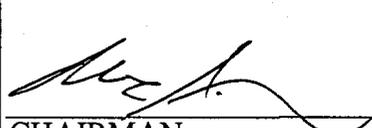
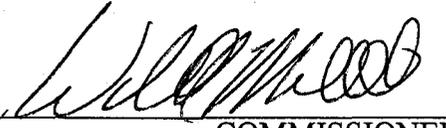
<sup>2</sup> On July 2, 2004, Applicant filed four CSRs, one indicated compliance and three indicated substantial compliance. The system to be used to provide service to Patton Place, PWS ID# 07-715, is in substantial compliance with minor deficiencies, but "needs to initiate lead and copper monitoring . . . four consecutive quarters of radiochemical monitoring . . . needs to report monthly total coliform properly."



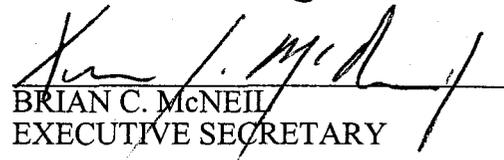
1 IT IS FURTHER ORDERED that Beardsley Water Company's Curtailment Tariff presented  
2 at the hearing is hereby approved.

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 COMMISSIONER COMMISSIONER

10  
11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
12 Secretary of the Arizona Corporation Commission, have  
13 hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this 10<sup>th</sup> day of August, 2004.

16   
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

17 DISSENT \_\_\_\_\_

18 DISSENT \_\_\_\_\_

19 MES:mlj

1 SERVICE LIST FOR: BEARDSLEY WATER COMPANY

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