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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2004 NOV -5 A 11: 13

Arizona Corporation Commission

DOCKETED

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

AZ CORP COMMISSION  
DOCUMENT CONTROL

NOV - 5 2004

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IN THE MATTER OF THE APPLICATION OF UTILITY SOURCE, L.L.C. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE IN COCONINO COUNTY, ARIZONA.

DOCKET NO. WS-04235A-04-0073x

IN THE MATTER OF THE APPLICATION OF UTILITY SOURCE, L.L.C. FOR AUTHORITY TO ISSUE PROMISSORY NOTE(S) AND OTHER EVIDENCES OF INDEBTEDNESS PAYABLE AT PERIODS OF MORE THAN TWELVE MONTHS AFTER THE DATE OF ISSUANCE.

DOCKET NO. WS-04235A-04-0074 ←

PROCEDURAL ORDER

**BY THE COMMISSION:**

On January 30, 2004, Utility Source, L.L.C. ("Utility Source" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an Application for Authority to Issue Promissory Note(s) and Other Evidences of Indebtedness in the amount of \$575,000 ("Financing Application").

On January 30, 2004, Utility Source additionally filed an Application for a Certificate of Convenience and Necessity ("CC&N") to Provide Water and Wastewater Service in Coconino County, Arizona ("CC&N Application").

On July 20, 2004, the Commission's Utilities Division Staff ("Staff") filed a letter indicating that Utility Source's CC&N Application had met the sufficiency requirements outlined in Arizona Administrative Code.

On August 2, 2004, Utility Source filed a Motion to Consolidate the above referenced dockets based upon the fact that the Financing and CC&N Applications rely upon the same law, facts, and witnesses.

By Procedural Order dated August 23, 2004, the above captioned matters were consolidated, and a hearing in the consolidated matter was set for October 12, 2004.

1 The hearing was held as scheduled on October 12, 2004. Utility Source and Staff appeared  
2 and were represented by counsel.

3 At the hearing, the parties agreed and recommended that any Decision relating to Utility  
4 Source's CC&N Application should treat the subject parcels as being divided into two phases, and  
5 both parties provided testimony as to which properties, in their respective opinions, constitute Phase I  
6 and are, therefore, properly included in the pending Physical Availability Demonstration ("PAD") to  
7 be issued by the Arizona Department of Water Resources ("ADWR").

8 On behalf of Utility Source, Mr. Lonnie McCleve testified that Phase I includes Utility  
9 Source,<sup>1</sup> Bellemont truck stop, undeveloped, Microtel motel, the Bellemont fire station, Flagstaff  
10 Meadows II, Flagstaff Meadows I, the town homes of Flagstaff Meadows, and the sewer treatment  
11 plant.<sup>2</sup>

12 Staff testified that based upon an October 7, 2004 letter from ADWR, which was marked as  
13 Exhibit A-10 and admitted into the record, Staff is of the opinion that Phase I includes only the 325  
14 total lots which comprise Flagstaff Meadows Units I and II and the Town Homes at Flagstaff  
15 Meadows Unit I. Staff further testified, however, that should ADWR issue a PAD that conclusively  
16 includes more than the 325 total lots, Staff would consider those additional properties to be part of  
17 Phase I.

18 In its Staff Report, Staff recommended that Utility Source's CC&N to provide water service  
19 be conditioned upon its filing of a copy of the Arizona Department of Environmental Quality  
20 ("ADEQ") Approval of Construction within 365 days of any Decision in this matter. Additionally,  
21 Staff testified that its recommendations include, but are not limited to, the requirement that Utility  
22 Source provide evidence that the truck stop has been reclassified as a community water system.

23 At the conclusion of the hearing, the parties were instructed that the record would remain  
24 open to allow for the filing of ADWR's PAD.

25 On October 27, 2004, Utility Source filed a letter enclosing the PAD for the 325 lots  
26 comprising Flagstaff Meadows Unit I and Unit II, Town homes at Flagstaff Meadows Unit I, the

27 \_\_\_\_\_  
28 <sup>1</sup> Mr. McCleve testified that Utility Source is where the basic water system and well fields are located.

<sup>2</sup> See Transcript at page 92, lines 6 - 10.

1 Bellemont Truck Center and its associated hotel and restaurant, a Capacity Development Approval  
2 letter from ADEQ relating to classification of the truck stop as a community water system, and  
3 ADEQ Approvals of Construction for Utility Source's water and wastewater facilities. By its letter,  
4 Utility Source additionally indicated that it intends to provide the legal descriptions for the well/tank  
5 sites and the wastewater treatment plant and lagoons, which are, in its opinion, to be included in the  
6 CC&N for Phase I.

7         Given the inability at hearing to obtain complete clarity with regard to the properties to be  
8 properly included in the description of Phase I and given Utility Source's subsequent filing of  
9 information requested by Staff, Staff needs to clarify its position with regard to the description of the  
10 properties to be included in Phase I as well as the extent to which the documents filed by Utility  
11 Source satisfy Staff's recommendations so as to simplify any subsequent recommendations in this  
12 matter.

13         Additionally, given Utility Source's stated intention to provide legal descriptions for the  
14 well/tank sites and the wastewater treatment plant and lagoons, which it argues are to be included in  
15 Phase I, it is appropriate to hold the record open to allow for the filing of those legal descriptions and  
16 to allow Staff an opportunity to file its standard analysis and plotting of those descriptions.

17         IT IS THEREFORE ORDERED that **on or before November 22, 2004**, Staff shall submit a  
18 statement of its position with regard to: (1) which properties, to be set forth with specificity, are  
19 properly included in Phase I based upon the October 19, 2004 PAD issued by ADWR and filed by  
20 Utility Source on October 27, 2004; (2) whether the ADEQ Approvals of Construction submitted on  
21 October 27, 2004, when taken in conjunction with the Approvals previously submitted and  
22 introduced as evidentiary exhibits at hearing, satisfy Staff's recommendation No. 6 as set forth on  
23 page 12 of its September 22, 2004 Staff Report; and (3) whether the October 7, 2004 letter from  
24 ADEQ, as filed by Utility Source on October 27, 2004, satisfies Staff's recommendation that Utility  
25 Source provide evidence that the truck stop has been reclassified as a community water system.

26         IT IS FURTHER ORDERED that Utility Source shall file its response, if any, to Staff's filing  
27 on or before **December 6, 2004**.

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1 IT IS FURTHER ORDERED that Utility Source shall file any remaining legal descriptions  
2 for the well/tank sites and the wastewater treatment plant and lagoons as soon as practicable.

3 IT IS FURTHER ORDERED that the timeclock provisions for processing this application  
4 shall be suspended until such time as the record in this matter is closed.

5 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
6 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

7 DATED this 5<sup>th</sup> day of November, 2004.

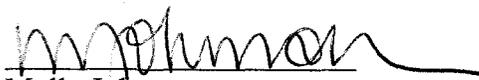
8   
9 AMANDA POPE  
10 ADMINISTRATIVE LAW JUDGE

11  
12 Copies of the foregoing mailed  
this 5 day of November, 2004 to:

13 Richard L. Sallquist  
14 Sallquist & Drummond, P.C.  
15 4500 S. Lakeshore Drive, Suite 339  
Tempe, Arizona 85252

16 Christopher Kempley, Chief Counsel  
17 Legal Division  
18 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

19 Ernest Johnson, Director  
20 Utilities Division  
21 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

22 By:   
23 Molly Johnson  
24 Secretary to Amanda Pope