

ORIGINAL

OPEN MEETING ITEM



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Executive Secretary

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COMMISSIONERS
MARC SPITZER - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
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ARIZONA CORPORATION COMMISSION

2004 OCT -8 A 8:29

DATE: October 8, 2004

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKET NO: W-01445A-04-0453

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amanda Pope. The recommendation has been filed in the form of an Opinion and Order on:

ARIZONA WATER COMPANY, INC.
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

OCTOBER 18, 2004

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

OCTOBER 26 AND 27, 2004

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

OCT - 8 2004

BRIAN C. McNEIL
EXECUTIVE SECRETARY

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This document is available in alternative formats by contacting Yvonne McFarlin, ADA Coordinator, voice phone number 602-542-3931, E-mail YMcFarlin@cc.state.az.us

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MARC SPITZER, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA WATER COMPANY, AN ARIZONA
10 CORPORATION, TO EXTEND ITS EXISTING
11 CERTIFICATE OF CONVENIENCE AND
12 NECESSITY IN COOLIDGE, PINAL COUNTY,
13 ARIZONA.

DOCKET NO. W-01445A-04-0453

DECISION NO. _____

OPINION AND ORDER

10 DATE OF HEARING:

September 22, 2004

11 PLACE OF HEARING:

Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE:

Amanda Pope

13 APPEARANCES:

Robert Geake, Vice President and General
Counsel, on behalf of Arizona Water Company;
and

David Ronald, Staff Attorney, Legal Division,
on behalf of the Utilities Division of the Arizona
Corporation Commission.

16 **BY THE COMMISSION:**

17
18 On June 16, 2004, Arizona Water Company ("AWC" or "Applicant"), filed an application for
19 an extension of its Certificate of Convenience and Necessity ("Certificate" or "CC&N") with the
20 Arizona Corporation Commission ("Commission") to provide public water utility service to various
21 parcels in Coolidge, Pinal County, Arizona ("Application").

22 On July 15, 2004, the Commission's Utilities Division Staff ("Staff") filed a letter indicating
23 that AWC's Application had met the sufficiency requirements set forth in the Arizona Administrative
24 Code.

25 By Procedural Order dated July 16, 2004, a hearing was scheduled for September 22, 2004
26 and other dates were set for publication and service of notice and procedural filing by parties to the
27 proceeding.

28 On August 30, 2004, AWC filed a Certificate of Publication, which indicates that on July 21,

1 2004, public notice of the hearing was mailed to all property owners in the proposed expansion area,
2 and notice of the hearing was published in the *Coolidge Examiner* on August 18, 2004.

3 On August 30, 2004, Staff filed a Staff Report recommending approval of the Application
4 subject to certain conditions.

5 On September 22, 2004, a full public hearing was convened before a duly authorized
6 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. AWC and Staff
7 appeared with counsel. No members of the public appeared to provide public comment.

8 At the conclusion of the hearing, the matter was taken under advisement pending submission
9 of a Recommended Opinion and Order to the Commission.

10 * * * * *

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

13 **FINDINGS OF FACT**

14 1. AWC is an Arizona corporation which is engaged in the business of providing water
15 service to approximately 67,000 customers in portions of Gila, Navajo, Cochise, Maricopa, Pima,
16 Yavapai, Coconino and Pinal Counties in Arizona. AWC was granted its Certificate in Decision No.
17 28794 (March 1955).

18 2. On June 16, 2004, AWC filed an Application for an extension of its certificated
19 system in Coolidge, Arizona to provide service to three parcels, each being contiguous to AWC's
20 certificated service area, totaling four and one half square miles, which is more accurately described
21 in Exhibit A, which is attached hereto and incorporated herein by reference.

22 3. On July 16, 2004, a Procedural Order was issued setting this matter for hearing on
23 September 22, 2004 and setting various procedural deadlines.

24 4. On August 30, 2004, AWC filed a Certificate of Publication indicating that on July 21,
25 2004, all property owners in the proposed extension area were mailed notice of the Application and
26 hearing date and that notice of the hearing was published in the *Coolidge Examiner* on August 18,
27 2004.

28 5. No intervention requests or objections to the Application were filed.

1 6. On August 30, 2004, the Commission's Utilities Division Staff ("Staff") filed a Staff
2 Report in this matter recommending conditional approval of the Application. Specifically, Staff
3 recommended: (1) that AWC charge its existing rates and charges in the proposed extension area; (2)
4 that AWC file with Docket Control the main extension agreement associated with the proposed
5 extension area within 365 days of the effective date of any Decision in this matter; (3) that AWC file
6 with Docket Control a copy of the ADEQ Certificate of Approval to Construct within 365 days of the
7 effective date of any Decision in this matter; and (4) that AWC file a copy of the developer's
8 Certificate of Assured Water Supply, where applicable or when required by statute, within 365 days
9 of the effective date of any Decision in this matter.

10 7. Staff further recommended that the Commission's Decision granting the extension to
11 AWC's Certificate be considered null and void without further order of the Commission should
12 AWC fail to meet the above conditions within the time specified.

13 8. The hearing was held as scheduled on September 22, 2004. Michael J. Whitehead
14 testified on behalf of AWC, and Jim Fisher testified on behalf of Staff.

15 9. Mr. Whitehead testified that the total area for which AWC is seeking an extension of
16 its CC&N is comprised of three separate parcels: (1) parcel no. 1 occupies the southern half of
17 Section 12 and the northwest quarter of Section 13, Township 5 south , Range 8 east ("Parcel 1"); (2)
18 parcel no. 2 occupies Sections 9 and 10, Township 5 south, Range 8 east ("Parcel 2"); and (3) parcel
19 no. 3 occupies Sections 6 and 7, Township 6 south, Range 8 east ("Parcel 3").

20 10. Parcels 1 and 2 are adjacent to the northern boundary, and Parcel 3 is adjacent to the
21 southwestern boundary, of AWC's existing Coolidge CC&N.

22 11. Mr. Whitehead testified that AWC has received a request from Omega Management
23 Services, Inc. to provide water service to Parcel 3, which will ultimately be developed into a master
24 planned community with 5,000 residential units to be known as "Cole Farms."

25 12. Mr. Whitehead testified that development of Cole Farms will require the drilling of
26 approximately 5 new wells, each with an anticipated production of 700 gallons per minute, and the
27 implementation of approximately 2 million gallons of storage and installation of 3 to 5
28 hydropneumatic systems at the well/tank sites. Mr. Whitehead further testified that these facilities

1 will be financed primarily with advances in aid of construction.

2 13. Development and completion of Cole Farms will, however, extend beyond the five
3 year period during which AWC estimates an additional 50 customers for the total proposed extension
4 area and will not, therefore, impact AWC's ability to provide service to the additional customers
5 based upon its existing system.

6 14. Mr. Whitehead further testified that AWC has also received a request from Mr. Everett
7 Lee to provide water service to Parcel 1, by which service will be provided to a yet to be developed
8 trailer court.

9 15. Mr. Whitehead testified that Mr. Lee's property will be served by installing a 12 inch
10 pipeline to connect to AWC's existing pipeline at Vah Ki Inn Road.

11 16. AWC seeks to expand its certificate to include Parcel 2 as it currently serves a San
12 Carlos Irrigation and Power relay station within that area.

13 17. According to Staff and Mr. Whitehead, AWC's existing Coolidge system currently
14 serves approximately 3,138 customers.¹

15 18. In its Staff Report, Staff indicates that with four wells, AWC's Coolidge system can
16 accommodate approximately 1,150 additional connections.

17 19. Staff and Mr. Whitehead testified that AWC's existing facilities are adequate to serve
18 the estimated five year growth within the area sought to be certificated herein.

19 20. The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic
20 maximum containment level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") to 10
21 µg/l. The date for compliance with the new MCL is January 23, 2006.

22 21. Staff indicated, and Mr. Whitehead testified, that the existing wells in the Coolidge
23 system meet the new arsenic MCL.

24 22. AWC has provided notice of the Application and the hearing thereon pursuant to the
25 July 16, 2004 Procedural Order.

26 23. Mr. Whitehead testified that AWC's curtailment tariff has been filed with and is

27 _____
28 ¹ At the hearing, Staff testified that the Staff Report should be amended to reflect that only 3,138 customers, rather than 4,365, are currently served by the existing Coolidge system.

1 pending approval from the Commission.

2 24. AWC has the necessary Pinal County franchise for the area described in Exhibit A.

3 25. There are no other public service corporations or municipally owned water systems
4 authorized to provide or providing water service in the area requested to be certified herein.

5 26. AWC is current on its filings with the Commission.

6 27. Mr. Whitehead testified that AWC is current on the payment of its property and sales
7 taxes.

8 28. AWC is in full compliance with the requirements of Arizona Department of
9 Environmental Quality and is delivering water that meets the water quality standards of the Safe
10 Drinking Water Act.

11 29. AWC is within the Arizona Department of Water Resources ("ADWR") Pinal Active
12 Management Area and is in compliance with ADWR's reporting and conservation rules.

13 30. AWC has indicated that it will charge its existing Coolidge rates and charges to
14 customers in the area described in Exhibit A.²

15 31. Staff testified that approval of the Application would serve the public interest

16 **CONCLUSIONS OF LAW**

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

19 2. The Commission has jurisdiction over the Applicant and the subject matter of the
20 Application.

21 3. Notice of the Application was provided in accordance with the law.

22 4. There is a public need and necessity for water utility service in the proposed service
23 areas described in Exhibit A.

24 5. Applicant is a fit and proper entity to receive an extension of its Certificate.

25 6. The Application to extend the Certificate for the area described in Exhibit A should be
26 granted subject to the conditions set forth in Findings of Fact Nos. 6 and 7 above.

27 _____
28 ² Mr. Whitehead testified that the Coolidge rates are subject to a pending rate case currently before the Commission for which a Decision is anticipated in 2005.

ORDER

IT IS THEREFORE ORDERED that the Application of Arizona Water Company for an extension of its Certificate of Convenience and Necessity for the operation of a water utility in the area more fully described in Exhibit A is hereby approved, provided that Arizona Water Company complies with the conditions as set forth in Findings of Fact Nos. 6 and 7 hereinabove.

IT IS FURTHER ORDERED that in the event that Arizona Water Company does not timely file copies of the required documentation as described in Findings of Fact No. 6 as required by the preceding ordering paragraph, then the extension of its Certificate of Convenience and Necessity shall be deemed to be null and void without further Order of the Arizona Corporation Commission.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN	COMMISSIONER	COMMISSIONER
COMMISSIONER	COMMISSIONER	

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2004.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

AKP:mlj

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SERVICE LIST FOR: ARIZONA WATER COMPANY

DOCKET NO. W-01445A-04-0453

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Legal Description

Sections 6 and 7 of Township 6 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

Together with:

Section 9, Section 10, The South Half of Section 12 and the Northwest quarter of Section 13, all in Township 5 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

EXCEPT that portion of Section 10 lying within the Gila River Indian Reservation, described as follows:

BEGINNING a the Northwest corner of said Section 10;
Thence South $01^{\circ}35'$ East, a distance of 1,315.38 feet;
Thence North $89^{\circ}35'$ East, a distance of 2,661.12 feet;
Thence North $01^{\circ}44'$ West, a distance of 1,304.82 feet;
Thence South $89^{\circ}35'$ West, a distance of 2,653.20 feet to the POINT OF BEGINNING.