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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

APR 24 2001

WILLIAM MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

DOCKETED BY *al*

IN THE MATTER OF THE APPLICATION OF
SERVICEBERRY WATER COMPANY FOR THE
DELETION OF A PORTION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. W-02481A-00-0279

DECISION NO. 63603

IN THE MATTER OF THE APPLICATION OF
SERVICEBERRY WATER COMPANY FOR THE
DELETION OF A PORTION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. W-02481A-00-0897

OPINION AND ORDER

DATE OF HEARING:

February 27, 2001

PLACE OF HEARING:

Phoenix, Arizona

PRESIDING ADMINISTRATIVE LAW
JUDGE:

Marc E. Stern

APPEARANCES:

Mr. Mark Grapp, Proprietor, on behalf of
Serviceberry Water Company; and

Mr. Devinti Williams, Staff Attorney, Legal
Division, on behalf of the Utilities Division of
the Arizona Corporation Commission.

BY THE COMMISSION:

On April 27, 2000, Serviceberry Water Company ("SWC" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application requesting the Commission's authorization to delete a parcel of nearly vacant land from its Certificate of Convenience and Necessity ("Certificate").

On May 11, 2000, SWC filed an Affidavit stating that it provided notice of the application to its customers by first-class U.S. Mail on April 24, 2000, and published notice of the application on May 10, 2000.

1 On November 3, 2000, SWC filed a second application requesting the Commission's
2 authorization to delete a second vacant parcel of land from its Certificate.

3 On November 20, 2000, the Commission's Utilities Division ("Staff") filed a Motion to
4 Consolidate the above-captioned proceedings because of the related nature of the applications.

5 On November 22, 2000, SWC filed an Affidavit stating that it had provided notice of the
6 second application for a deletion to its customers by first-class U.S. mail on November 20, 2000, and
7 by publication on November 10, 2000.

8 On November 28, 2000, the Commission, by Procedural Order, consolidated the above-
9 captioned proceedings for purposes of hearing and scheduled a hearing on the applications.

10 On January 23, 2001, Staff filed its Staff Report recommending approval of the applications
11 following a hearing.

12 On February 27, 2001, a full public hearing was held before a duly authorized Administrative
13 Law Judge of the Commission at its offices in Phoenix, Arizona. The owner of SWC appeared and
14 Staff appeared with counsel. After a full public hearing, the matter was taken under advisement
15 pending submission of recommended Opinion and Order to the Commission.

16 * * * * *

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

19 **FINDINGS OF FACT**

20 1. SWC is a sole proprietorship owned by Mr. Mark Grapp who provides public water utility
21 service to approximately 19 customers in and around the Vernon Townsite in Apache County,
22 Arizona.

23 2. On April 27, 2000, SWC filed an application in Docket No. W-02481A-00-0279 in which
24 Applicant requested a deletion of a parcel of mostly vacant property¹ from its Certificate which is
25 described more fully in Exhibit A attached hereto and incorporated herein by reference.

26 3. On November 3, 2000, SWC filed an application in Docket No. W-02481A-00-0897 in
27

28 ¹ There is a barn and some livestock located on this parcel.

1 which Applicant requested a deletion of a parcel of vacant property from its Certificate which is
2 described more fully in Exhibit A attached hereto and incorporated herein by reference.

3 4. Notice of the applications was provided to SWC's customers in the manner prescribed by
4 law.

5 5. Currently, SWC is certificated to provide public water utility service to approximately 350
6 acres; however, its active service area consists of between 10 and 15 acres.

7 6. SWC, with its two applications, seeks to delete a total of approximately 24 acres from the
8 area contained within its Certificate.

9 7. SWC's first application requests a deletion because a property owner, Mr. David
10 Westbrook, is requesting the deletion of his parcel. Mr. Westbrook plans to split his parcel into
11 approximately 10 lots that will be provided with water service by the Vernon Domestic Water
12 Improvement District ("Improvement District"). The Improvement District can provide water more
13 easily and less expensively because the parcel is located closer to the Improvement District's water
14 lines.

15 8. Mr. Grapp further indicated that the area to be deleted in the first application also includes
16 parcels belonging to two adjacent small property owners.

17 9. SWC's second application involves approximately a 10 acre parcel where the Vernon
18 School District No. 9 ("District No. 9") plans to construct a new school. District No. 9 is requesting
19 this deletion because it anticipates being provided with water service by the Improvement District
20 which has more storage capacity and more water pressure on its system for fire flows.²

21 10. Mr. Grapp indicated that SWC does not provide service to either parcel at this time.

22 11. The deletion of the parcels described in Exhibit A will not affect any existing customers of
23 SWC.

24 12. On January 23, 2001, Staff filed its report recommending that the Commission approve
25 the applications for the deletions of the parcels which are described in Exhibit A attached hereto.

26 13. At the conclusion of the proceeding, Mr. Grapp and Staff agreed to review the legal
27

28 ² A nearby property owned by Mr. Donald Bawden was initially included in the second application, but he subsequently decided to continue his service with SWC and his property will not be deleted.

1 descriptions for the two parcels which are to be deleted and later filed an exhibit in the Docket which
2 contains the correct legal descriptions of the parcels to be deleted by the Commission in Exhibit A.

3 CONCLUSIONS OF LAW

4 1. SWC is a public service corporation within the meaning of Article XV of the Arizona
5 Constitution and A.R.S. §§ 40-281, 40-282, 40-285 and 40-252.

6 2. Notice of the applications was provided in the manner prescribed by law.

7 3. The Commission has jurisdiction over SWC and the subject matter of the applications.

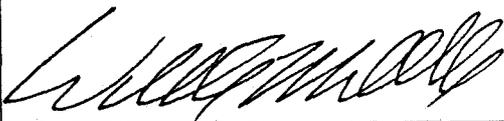
8 4. SWC's applications for the deletion for the areas described in Exhibit A should be
9 approved.

10 ORDER

11 IT IS THEREFORE ORDERED that the applications of Serviceberry Water Company for the
12 deletion of the areas described in Exhibit A attached hereto and incorporated herein by reference be,
13 and are hereby, approved.

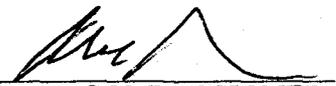
14 IT IS FURTHER ORDERED that this decision shall become effective immediately.

15 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

16
17 

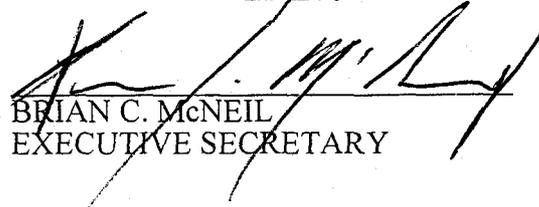
18 CHAIRMAN

18 COMMISSIONER



18 COMMISSIONER

19
20 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
21 Secretary of the Arizona Corporation Commission, have
22 hereunto set my hand and caused the official seal of the
23 Commission to be affixed at the Capitol, in the City of Phoenix,
24 this 24TH day of April, 2001.

23 
24 BRIAN C. McNEIL
25 EXECUTIVE SECRETARY

26 DISSENT _____
27 MES:mlj

1 SERVICE LIST FOR: SERVICEBERRY WATER COMPANY

2
3 DOCKET NO.: W-02481A-00-0279

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5 P.O. Box 426
6 Lakeside, AZ 85929

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11 ARIZONA CORPORATION COMMISSION
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SERVICEBERRY WATER COMPANY
DOCKET NO. W-2481-00-279
AMENDED LEGAL DESCRIPTION
(Westbrook)

A portion of the Northeast Quarter of Section 21, Township 10 North, Range 25 East, of the Gila and Salt River Base and Meridian, Apache County, Arizona, further described as follows:

COMMENCING at the East Quarter Corner of said Section 21;

Thence South 88° 41' 16" West, a distance of 722.06 feet;

Thence North 00° 25' 45" East, along the southerly prolongation of the westerly line of the VERNON TOWNSITE, as recorded in Book 1 of Townsite Plats, Page 16, records of Apache County, Arizona, a distance of 1334.97 feet to a Point of Beginning;

Thence, COMMENCING at said Point of Beginning, which is the Southeast Corner of Parcel 1, Elk Shadows, Unit 1, an unsubdivided tract of land recorded in the Office of the Recorder of Apache County, Arizona, in Book 4 of Land Surveys, Pages 156-158 inclusive;

Thence South 88° 58' 03" West, a distance of 462.00 feet;

Thence North 00° 25' 45" East, a distance of 1336.80 feet;

Thence North 89° 14' 12" East, a distance of 462.00 feet;

Thence South 00° 25' 45" West, a distance of 1334.94 feet along the easterly boundary of said Elk Shadows, Parcel 1, Unit 1, to the true Point of Beginning.

IV. Assessor's Parcel No. 106-36-019L:

2.95 acres of Section 21, Township 10 North, Range 25 East, beginning at the East Quarter Corner of said Section 21;

Thence North 514 feet and West 512 feet to the Point of Beginning;

Thence North 183.08 feet;

Thence West 11.77 feet;

Thence North 457 feet;

Thence West 198 feet;

Thence South 635.72 feet;

Thence East 209.72 feet to the Point of Beginning.

DOCKET NO. W-2481-00-897
LEGAL DESCRIPTION PARCEL "A" (SCHOOL)

That portion of PARCEL 9, ELK SHADOWS, Unit One as recorded in book 4 of Surveys, Pages 156, 157 & 158, Apache County, Arizona, being described as follows, being within a portion of Section 21, Township 10 North, Range 25 East, of the Gila and Salt River Base and Meridian, Apache County, Arizona:

BEGINNING at the East quarter corner of said Section 21, Township 10 North, Range 25 East, of the Gila and Salt River Base and Meridian, Apache County, Arizona, a 3" aluminum cap, said point also being the northeast corner of said Parcel 9, Elk Shadows, Unit One;

Thence South 00 degrees 18' 34" East along the East line of the Southeast quarter of said Section 21 a distance of 639.93 feet;

Thence North 89 degrees 21' 09" West a distance of 693.65 feet to a 1/2" rebar with cap, LS 13013;

Thence North 00 degrees 18' 29" West a distance of 616.21 feet to a point on the North line of said Parcel 9, Elk Shadows, Unit One, a 1/2" rebar with cap, LS 13013;

Thence North 88 degrees 41' 16" East along the North line of said Parcel 9 a distance of 693.65 feet to the POINT OF BEGINNING.

Subject to Easements of Record

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER



U.S. MAILING ITEM
RECEIVED

BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION 2001 MAR 29 P 2:12

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: March 29, 2001

DOCKET NO: W-02481A-00-0897

TO ALL PARTIES:

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

SERVICEBERRY WATER COMPANY
(CC&N)

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 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:

APRIL 9, 2001

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:

APRIL 17, 2001 AND APRIL 18, 2001

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