

OPEN MEETING ITEM  
ORIGINAL



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



Executive Secretary

22

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

**DOCKETED**

DATE: May 10, 2005

MAY 10 2005

DOCKET NO: W-01445A-03-0559

TO ALL PARTIES:

DOCKETED BY	<i>RN</i>
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Enclosed please find the recommendation of Administrative Law Judge Amanda Pope. The recommendation has been filed in the form of an Order on:

ARIZONA WATER COMPANY  
(COMPLIANCE WITH DECISION NO. 66893)

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:

MAY 19, 2005

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 Open Meeting to be held on:

MAY 24 AND 25, 2005

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.

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*Brian C. McNeil*  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

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

8 IN THE MATTER OF THE APPLICATION OF  
9 ARIZONA WATER COMPANY TO EXTEND ITS  
10 CERTIFICATE OF CONVENIENCE AND  
11 NECESSITY IN CASA GRANDE, PINAL  
12 COUNTY, ARIZONA.

DOCKET NO. W-01445A-03-0559

DECISION NO. \_\_\_\_\_

**ORDER**

13 Open Meeting  
14 May 24 and 25, 2005  
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

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

19 **FINDINGS OF FACT**

20 1. In Decision No. 66893 (April 6, 2004), the Arizona Corporation Commission  
21 ("Commission") granted Arizona Water Company's ("AWC") application for an extension of its  
22 Certificate of Convenience and Necessity ("CC&N") for its Casa Grande system, subject to certain  
23 conditions.

24 2. Pursuant to Decision No. 66893, AWC was ordered to file (1) a copy of the  
25 Developers' Assured Water Supply for each development with the Commission within 365 days of  
26 the Decision and (2) a main extension agreement associated with the extension area within 365 days  
27 of the Decision with failure to meet these conditions within the specified time resulting in the  
28 Decision being deemed null and void without further Order of the Commission.

3. On March 30, 2005, AWC filed a Request for Additional Time to Comply with the  
Filing Requirement ("Request"). By its filing, AWC requested an additional 365 days to comply  
with the above referenced conditions based upon the fact that development in the proposed expansion  
area will be delayed for a year.

1           4.       Staff did not respond to AWC's Request, and a Procedural Order was issued April 5,  
2 2005, by which the Commission's Utilities Division Staff ("Staff") was ordered to file a response to  
3 AWC's Request on or before April 11, 2005.

4           5.       On April 7, 2005, Robson Communities, Inc. ("Robson") filed a letter in this Docket  
5 on behalf of Cornman Tweedy 560, LLC ("Cornman"), the owner of approximately 1,120 acres of  
6 real property located within the area in Pinal County for which AWC was granted an extension in  
7 Decision No. 66893.

8           6.       Robson indicated that all but approximately 160 acres of the property owned by  
9 Cornman is to be developed as part of the EJ Ranch Master Planned Community ("EJ Ranch").

10          7.       Robson argued that given AWC's failure to timely comply with the above referenced  
11 conditions, Decision No. 66893 is automatically null and void without further Order of the  
12 Commission.

13          8.       Additionally, Robson indicated that Cornman does not wish to be within AWC's  
14 CC&N and has requested that Picacho Water Company ("Picacho") provide water service to its  
15 property and that Picacho intends to apply to extend its CC&N to include Cornman's property.  
16 Robson stated its belief that it would be advantageous to serve the ultimate residents of EJ Ranch  
17 with coordinated water and sewer service from Picacho.

18          9.       Robson further indicated that Cornman, Picacho and Picacho Sewer Company are all  
19 affiliates of Robson.

20          10.       On April 11, 2005, Staff filed a Memorandum, which noted a change in circumstances  
21 in the facts supporting the Commission's Decision No. 66893 and consequently recommended the  
22 scheduling of additional evidentiary proceedings on the merits of AWC's Request and Robson's  
23 objection thereto.

24          11.       On April 20, 2005, AWC filed a Response to Staff's Recommendation for Additional  
25 Evidentiary Proceedings by which AWC argued that Staff's recommendation must be rejected as  
26 Robson and Cornman have no standing to present objections. AWC further argued that extensions  
27 for compliance, such as those set forth in AWC's Request, are routine in nature and should be  
28 granted.

1 12. The record in this matter indicates that the requirements of notice and hearing were  
2 met prior to the issuance of Decision No. 66893 as a full public hearing was held subsequent to AWC  
3 having duly published and mailed notice to all property owners in the proposed extension area.

4 13. The record in this matter further indicates, however, that neither objections to the  
5 application nor requests for intervention were filed.

6 14. Consequently, neither Robson nor Cornman were or are proper parties to this matter.

7 15. Absent a demonstration that either Robson or Cornman have proper standing to object  
8 to AWC's Request, we disagree with Staff's recommendation for the scheduling of additional  
9 evidentiary proceedings.

10 16. While it would be procedurally inappropriate to consider Robson's objection in  
11 relation to AWC's Request, we note that Picacho has filed an application to extend its CC&N in the  
12 subject area.<sup>1</sup> Accordingly, Staff's concerns relating to the change in facts supporting the  
13 Commission's prior Decision may be addressed by filing the appropriate motion in either or both  
14 dockets.

15 17. AWC's Request was timely as it was filed prior to the expiration of the 365 days set  
16 for compliance.

17 18. We believe that AWC's Request is reasonable in light of the developers' indication  
18 that construction within the expansion area will be delayed for a year.

19 **CONCLUSIONS OF LAW**

20 1. AWC is a public service corporation within the meaning of Article XV of the Arizona  
21 Constitution and A.R.S. §40-281 *et seq.*

22 2. The Commission has jurisdiction over AWC and the subject matter of its Request.

23 3. Neither Robson nor Cornman have standing to object to AWC's Request.

24 4. Staff's recommendation in Findings of Fact No. 9 is not reasonable given Robson and  
25 Cornman's lack of standing and should not, therefore, be adopted.

26 5. AWC's Request was timely and is reasonable and should be granted.

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<sup>1</sup> See Docket No. W-03528A-05-0281.



1 SERVICE LIST FOR: ARIZONA WATER COMPANY

2 DOCKET NO.: W-01445A-03-0487

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