



BEFORE THE ARIZONA CORPORATION COMMISSION

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

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF  
CORONADO UTILITIES, INC. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WASTEWATER  
SERVICE IN PINAL COUNTY, ARIZONA.

DOCKET NO. SW-04305A-05-0086

IN THE MATTER OF THE APPLICATION OF  
CORONADO UTILITIES, INC. FOR AUTHORITY  
TO ISSUE SHORT AND LONG-TERM DEBT IN  
CONNECTION WITH THE ACQUISITION OF  
THE WASTEWATER UTILITY PLANT OF BHP  
COPPER, INC. AND CONSTRUCTING  
IMPROVEMENTS THERETO.

DOCKET NO. SW-04305A-05-0087

PROCEDURAL ORDER

**BY THE COMMISSION:**

By Procedural Orders dated March 16, 2005 and March 23, 2005, the hearing in the above-captioned matters convened on June 29, 2005.

By Procedural Order dated July 7, 2005, the Hearing Division granted Arizona Corporation Commission ("Commission") Utility Division Staff's ("Staff") request to re-open the hearing in order to address new information concerning the application that had come to Staff's attention after the June 29, 2005 hearing as well as Staff's revisions to its proposed rate design. Coronado Utilities, Inc. ("Coronado" or "Company") agreed that the new information was best considered in the context of an evidentiary hearing. The re-opened hearing was set for July 22, 2005. In addition, Staff was ordered to file by August 10, 2005, a legal analysis of whether BHP Copper, the entity that is currently providing wastewater service in the affected area, is, or could be, a public service corporation.

On July 11, 2005, Staff filed a Request to Reset Hearing Date. Santac, the manufacturer of the wastewater treatment plant that Coronado expected to install, had a sentencing hearing in a criminal matter set for August 11, 2005. Staff believes that the results of that hearing might affect its

1 recommendations in this matter, and requested that the re-opened hearing be re-set to no earlier than  
2 two weeks after the sentencing hearing.<sup>1</sup> Staff also requested that Coronado be required to re-notice  
3 the re-opened hearing and that the Company provide a witness from BHP who can provide  
4 information about customer complaints and background information that would be helpful in  
5 determining whether BHP is a public service corporation.

6 By Procedural Order dated July 12, 2005, a Procedural Conference convened on July 22,  
7 2005. During the Procedural Conference, Coronado suggested that publication would be an effective  
8 and cost-minimizing means of notifying the San Manuel customers of the re-opened hearing.  
9 Coronado indicated that the local newspaper had expressed an interest in running an article on the  
10 proceeding, and had agreed that notice of the hearing could be included as part of the article. Staff  
11 concurred that publication would be effective notice. The parties committed to work together to  
12 devise language for the notice.

13 Coronado objected to Staff's suggestion that it be required to arrange for a witness from BHP.  
14 Coronado also indicated, however, that it was its understanding that BHP had volunteered to make a  
15 witness available at the hearing.

16 Finally, Coronado objected to Staff's suggestion that it be required to file a legal analysis on  
17 the status on BHP as a public service corporation, as Coronado does not think the question relevant to  
18 its application.

19 As evidenced by the large volume of written comments received from San Manuel residents,  
20 the local community is following this matter closely. Having the notice of the re-opened hearing  
21 published in the local newspaper can be an effective means of notice. Including a description of the  
22 nature of the hearing, and the date, time and location of the proceeding in, or alongside, an article  
23 should reach more readers than a notice in the Legal Notice section of the newspaper. However, we  
24 cannot determine in advance the form of the notice that a newspaper would provide as part of a news  
25 article. We believe that while publication is a sufficient form of notice in this case, Coronado must  
26 have the form of notice set forth herein published. Some of the public comments received to date in  
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28 <sup>1</sup> Subsequent to Staff's Request to reset, it was learned the sentencing hearing was continued until August 23, 2005.

1 this matter have indicated the writer did not see the original notice of this proceeding. Coronado  
2 provided evidence that it both mailed notice of the hearing to the residents within its proposed service  
3 territory and had the notice published in the newspaper as required by Commission Procedural Order.  
4 Because notice has become an issue in this case, and in an attempt to inform as many in the local  
5 community as possible, we also will require Coronado to post a copy of the notice in at least three  
6 public locations (such as a post office, community center, town hall, diner, etc.) within its proposed  
7 service territory. In addition, in an attempt to facilitate the distribution of information, we are  
8 providing a copy of this Procedural Order to the local newspaper.

9 We agree with Staff that a witness from BHP Copper would be beneficial to a determination  
10 of whether the application is in the public interest and whether BHP might be a public service  
11 corporation. That witness' voluntary participation is preferable. However, as the determination of  
12 BHP's status is being raised by the Commission, to the extent Staff believes a BHP witness is  
13 important to the inquiry, we believe Staff should be responsible to arrange for that witness'  
14 appearance.

15 The fact that there may or may not be another public service corporation currently providing  
16 service in the area sought to be certificated by Coronado is relevant to our analysis of the pending  
17 application. Whether Coronado is acquiring the facilities of a public service corporation is relevant  
18 to the application. Although the Commission can make a determination of BHP's status based on  
19 Staff's analysis, the Commission's deliberations would benefit from as thorough an analysis as  
20 possible, which analysis would be enhanced by Coronado's participation. The issue is relevant to its  
21 application and Coronado should file a legal analysis as well. Because there is ample time before the  
22 hearing reconvenes, and to give all parties sufficient time to make an informed and thorough legal  
23 analysis, the time for filing the legal analysis on BHP's status as a public service corporation is  
24 extended until August 31, 2005.

25 IT IS THEREFORE ORDERED that the **hearing** in this matter shall re-commence on  
26 **September 19, 2005**, at 10:00 a.m. or as soon thereafter as is possible, at the Commission's Tucson  
27 offices, **Room 222**, 400 West Congress Street, Tucson, Arizona 85701.

1 IT IS FURTHER ORDERED that the deadline for all parties to file a legal analysis of BHP's  
2 status as a public service corporation is extended until August 31, 2005.

3 IT IS FURTHER ORDERED that Staff shall file any revised Staff Report or  
4 recommendations no later than August 31, 2005.

5 IT IS FURTHER ORDERED that Coronado shall file any comments to a revised Staff Report  
6 or Staff recommendations by September 13, 2005.

7 IT IS FURTHER ORDERED that Coronado shall cause notice of the re-opened hearing to be  
8 published in a newspaper of general circulation in the area of its proposed Certificate in the following  
9 form and style, with the heading in no less than 12 point type and the body in no less than 10 point  
10 type:

11 **NOTICE OF RE-OPENED HEARING ON**  
12 **THE APPLICATION OF CORONADO UTILITIES COMPANY, INC.**  
13 **FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY**  
14 **TO PROVIDE WASTEWATER SERVICE IN PINAL COUNTY**  
15 **DOCKET NO. SW-04305A-05-0086 ET AL**

16 On February 10, 2005, Coronado Utilities, Inc. ("Applicant") filed an application  
17 with the Arizona Corporation Commission ("Commission") for a new Certificate of  
18 Convenience and Necessity to provide wastewater utility service within an area of  
19 Pinal County and an application for authority to issue long-term debt. BHP Copper  
20 currently provides wastewater service within the proposed service area. The  
21 Commission held a hearing on this matter on June 29, 2005. In order to consider  
22 issues that have arisen subsequent to the initial hearing, the Commission will re-open  
23 the hearing on this matter beginning **September 19, 2005, at 10:00 a.m.**, at the  
24 Commission's offices, **Room 222, 400 West Congress Street, Tucson, Arizona.**  
25 Additional Public comment will be taken on the first day of the re-opened hearing.

26 If the applications are granted, Applicant will be the exclusive provider of wastewater  
27 service in the proposed service territory, and will be required by the Commission to  
28 provide service under rates and charges and terms and conditions established by the  
Commission. The applications and the Commission Utilities Division Staff Report  
are available for inspection during regular business hours at the offices of the  
Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and in  
Tucson, at 400 West Congress St. Suite 218, Tucson, Arizona and at the offices of the  
Applicant, Coronado Utilities, 6825 E. Tennessee Ave., #547, Denver, CO 80224.

If you have any questions about these applications you may contact the Consumer  
Services Section of the Commission at 1200 West Washington Street, Phoenix,  
Arizona 85007, or call 1-800-222-7000.

The Commission does not discriminate on the basis of disability in admission to its  
public meetings. Persons with a disability may request a reasonable accommodation  
such as a sign language interpreter, as well as request this document in an alternative  
format, by contacting Linda Hogan, ADA Coordinator, voice phone number 602/542-  
3931, E-mail LHogan@cc.state.az.us. Requests should be made as early as possible  
to allow time to arrange the accommodation.

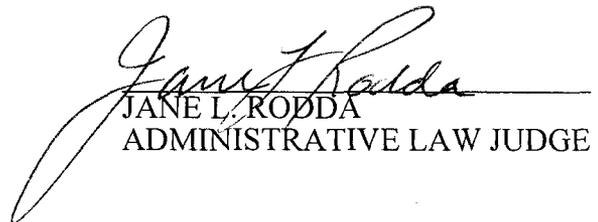
1 IT IS FURTHER ORDERED that Coronado shall cause the Notice to be published in a  
2 newspaper of general circulation in its proposed service area no later than September 7, 2005.

3 IT IS FURTHER ORDERED that Coronado shall post copies of the Notice in at least three  
4 public locations within its proposed service area, such postings to occur as soon as practical and  
5 remain posted through the date of the hearing.

6 IT IS FURTHER ORDERED that Coronado shall file an affidavit of publication and posting  
7 of the notice as soon as practicable after publication.

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

10 DATED this 2nd day of August, 2005.

11  
12   
13 JANE L. ROBDA  
14 ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed  
14 this 2nd day of August, 2005 to:

15 Mr. Jay Shapiro  
16 Mr. Patrick Black  
17 Fennemore Craig, PC  
18 3003 North Central Avenue  
19 Suite 2600  
20 Phoenix, Arizona 85012  
21 Attorneys for Coronado Utilities, Inc.

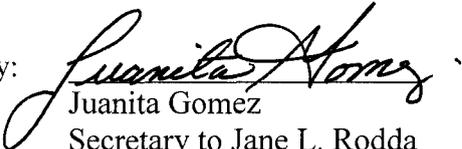
22 Kim Eggleston  
23 Park Management & Investments  
24 7373 N. Scottsdale Road, Suite A-280  
25 Scottsdale, AZ 85253

26 Gayle Carnes, Editor  
27 San Manuel Miner  
28 P.O. Box 60  
San Manuel, Arizona 85631

Mr. Christopher Kempley, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

1 Mr. Ernest Johnson, Director  
2 Utilities Division  
3 ARIZONA CORPORATION COMMISSION  
4 1200 West Washington Street  
5 Phoenix, Arizona 85007

6  
7 ARIZONA REPORTING SERVICE, INC.  
8 2627 N. Third Street, Suite Three  
9 Phoenix, Arizona 85004-1104

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By:   
Juanita Gomez  
Secretary to Jane L. Rodda