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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

JAN 15 2002

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1 WILLIAM A. MUNDELL  
2 CHAIRMAN  
3 JIM IRVIN  
4 COMMISSIONER  
5 MARC SPITZER  
6 COMMISSIONER

7 IN THE MATTER OF THE APPLICATION OF  
8 LITCHFIELD PARK SERVICE COMPANY FOR  
9 AN EXTENSION OF ITS CERTIFIATES OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
WATER AND WASTEWATER SERVICE TO THE  
PUBLIC IN MARICOPA COUNTY, ARIZONA,  
AND DELETION OF A PORTION OF THE  
WATER CERTIFICATE.

DOCKET NOS. W-01427A-00-1004  
SW-01428A-00-1004

DECISION NO. 64358

**OPINION AND ORDER**

10 DATE OF HEARING: August 22, 2001  
11 PLACE OF HEARING: Phoenix, Arizona  
12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
13 APPEARANCES: Sallquist & Drummond, P.C., by Richard L.  
14 Sallquist, on behalf of Litchfield Park Service  
15 Company; and  
16 Ms. Teena Wolfe, Staff Attorney, Legal  
Division, on behalf of the Utilities Division of  
the Arizona Corporation Commission Staff.

17 **BY THE COMMISSION:**

18 On December 8, 2000, Litchfield Park Service Company ("LPSCO" or "Applicant") filed an  
19 application for an extension of its Certificates of Convenience and Necessity ("Certificate(s)") to  
20 provide public water and wastewater utility service in the City of Goodyear, Maricopa County,  
21 Arizona and for a deletion of a portion of its Certificate to provide water service.

22 On May 14, 2001, the Commission's Utilities Division ("Staff") filed its report<sup>1</sup>.

23 On June 29, 2001, by Procedural Order, the above-captioned matter was scheduled for  
24 hearing on August 22, 2001, and Applicant was ordered to publish notice of the Application and  
25 hearing thereon.

26  
27 <sup>1</sup> The Staff Report established that the application was sufficient for processing pursuant to A.A.C. R14-2-411 and A.A.C.  
28 R14-2-610. However, since additional time was required in order for the Commission to act on the application because of  
scheduling conflicts, the timeframe rules were suspended to allow the Commission time to complete its review on the  
merits of the case.

1 On July 18, 2001, LPSCO filed a response to the Staff Report.

2 On August 22, 2001, a full public hearing was convened before a duly authorized  
3 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. LPSCO and Staff  
4 appeared with counsel. At the conclusion of the hearing, the matter taken under advisement pending  
5 submission of a Recommended Opinion and Order to the Commission.

6 \* \* \* \* \*

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

9 **FINDINGS OF FACT**

10 1. Pursuant to authority granted by the Commission, LPSCO is engaged in providing  
11 public water service to approximately 4,000 customers and public wastewater service to  
12 approximately 3,500 customers in various parts of the City of Goodyear ("City"), Maricopa County,  
13 Arizona.

14 2. On December 8, 2000, LPSCO filed an application in which it seeks Commission  
15 approval to extend its water and wastewater Certificates to a portion of the City north of Interstate 10  
16 and to delete a portion of its water Certificate in an area south of Interstate 10, which areas are  
17 described more fully in Exhibit A attached hereto and incorporated by reference.

18 3. The City is an Arizona municipal corporation providing water and wastewater utility  
19 service to the public within the City in the vicinity of LPSCO's Certificates.

20 4. Pursuant to the terms of a Water and Wastewater Service Memorandum of  
21 Understanding ("Agreement") dated August 14, 2000, between the City and Applicant, the parties  
22 have agreed to an adjustment of their respective utility service areas to more efficiently and  
23 effectively serve current and future customers.

24 5. LPSCO is requesting the deletion of an area in which it is certificated to provide water  
25 service only that is located in the southwest corner of its existing certificated service area which is  
26 located south of Interstate 10 and more than two miles from Applicant's facilities.

27 6. The City has facilities that are adjacent to the deletion area which is being developed  
28 as part of a larger project by Continental Homes. After the deletion, the City will provide service to

1 the entire area.

2 7. LPSCO has no water service facilities, deposits, customers or agreements with  
3 property owners within the area sought to be deleted herein.

4 8. The area for which LPSCO is seeking an extension of its Certificate to provide water  
5 and wastewater service is located north of Interstate 10 and is comprised of a section of land that is  
6 surrounded by LPSCO's certificated service area where water and wastewater collection lines are  
7 located adjacent to the requested parcel.

8 9. Applicant provided notice of the application and hearing thereon in the manner  
9 prescribed by law.

10 10. The area which Applicant is requesting be certificated is being developed by several  
11 developers who plan to develop the section as follows: the northern portion will contain  
12 approximately 1,700 residential homes; the southeast corner will be the home of a future regional  
13 mall; and the southwest corner is destined to become mixed use commercial.

14 11. During the proceeding, a witness for LPSCO stated that the residential development is  
15 imminent with about 30 acres of the mixed-use commercial area being developed at or about the  
16 same time. It is estimated that the regional mall will be built in seven to eight years.

17 12. With respect to the area sought to be certificated, LPSCO has entered into a main  
18 extension agreement with the developers to develop three new wells and is in the process of  
19 constructing a 4.1 million gallons per day wastewater treatment facility that is located approximately  
20 one-half mile east of the parcel. The wastewater facility will be used by existing customers and  
21 future customers in the expansion area.

22 13. LPSCO employs full-time certified operators for both its water and wastewater  
23 facilities.

24 14. Since the section of land for which LPSCO is requesting an extension for its  
25 Certificates herein is located within City limits, LPSCO did not obtain a county franchise but, under  
26 the terms of the Agreement, was granted a City license which will allow Applicant to install its water  
27 and wastewater facilities in the public rights of way.

28 15. LPSCO will charge customers in the area sought to be certificated herein its existing

1 rates and charges.

2 16. In the area sought to be certificated herein, LPSCO will finance additional plant by  
3 means of contributions and main extension agreements with developers.

4 17. LPSCO is current on its filings with the Commission and the payment of its sales and  
5 property taxes.

6 18. LPSCO is in compliance with the rules of the Arizona Department of Environmental  
7 Quality ("ADEQ") and the Arizona Department of Water Resources ("ADWR") and is delivering  
8 water that does not contain excessive MCLs and meets the requirements of the Safe Drinking Water  
9 Act.

10 19. LPSCO is in ADWR's Phoenix Active Management Area and is complying with its  
11 ground water management regulations.

12 20. LPSCO's wastewater treatment facilities are in compliance with the rules of the  
13 Maricopa County Health Department.

14 21. LPSCO agreed to file copies of the developers' Certificates of Approval to Construct  
15 in the future when LPSCO requests Commission approval of main extension agreements.

16 22. Staff is recommending approval of LPSCO's application to both extend and delete  
17 portions of its Certificates as described in Exhibit A, and believes that Applicant can meet the  
18 demands of its existing customers and provide for future growth by developing the facilities  
19 described during the proceeding.

20 23. Staff is also recommending that LPSCO be ordered to charge its existing rates and  
21 charges in the extension area described in Exhibit A.

22 24. Although Staff had originally recommended that LPSCO be required to file a copy of  
23 its Maricopa County franchise for the expansion area within 365 days of the effective date of this  
24 Decision, during the proceeding, Staff amended its position and indicated that the license granted by  
25 the City in the Agreement, which was filed as an exhibit to the application herein, was a satisfactory  
26 alternative since the extension area lies solely within the boundaries of the City.

27 25. Staff further recommends that the Commission condition approval of the application  
28 upon Applicant filing, with the Director of the Commission's Utilities Division, within 365 days of

1 the effective date of this Decision, a copy of a developer's Certificate of Assured Water Supply or the  
2 approval will be rendered null and void without further Order by the Commission.

3 26. Based upon our review of the record, we believe that Staff's recommendations herein  
4 are reasonable and should be adopted.

5 **CONCLUSIONS OF LAW**

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

8 2. The Commission has jurisdiction over the Applicant and of the subject matter of the  
9 application.

10 3. Notice of LPSCO's application as described herein was given in the manner  
11 prescribed by law.

12 4. The public convenience and necessity require and the public would benefit by the  
13 deletion and extension of the relevant parcels of the LPSCO's Certificates so that its certificated  
14 service area will include the extension area and will reflect the deletion of the area as described in  
15 Exhibit A.

16 5. The Applicant is a fit and proper entity to receive amended Certificates which  
17 encompass the area more fully described in the extension area in Exhibit A.

18 6. The area that should be deleted from LPSCO's water Certificate is more fully  
19 described in the deletion area described in Exhibit A.

20 7. LPSCO's application for the extension of its Certificates should be approved as  
21 recommended by Staff in Findings of Fact Nos. 23 and 25.

22 **ORDER**

23 IT IS THEREFORE ORDERED that the application of Litchfield Park Service Company for  
24 an extension of its Certificates of Convenience and Necessity to provide water and wastewater  
25 service with respect to the extension area more fully described in Exhibit A be, and is hereby,  
26 approved.

27 IT IS FURTHER ORDERED that the application of Litchfield Park Service Company for the  
28 deletion of a portion of its Certificate of Convenience and Necessity to provide water service in the

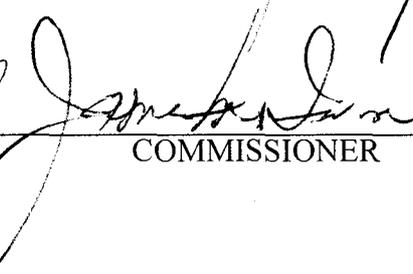
1 deletion area more fully described in Exhibit A be, and is hereby, approved.

2 IT IS FURTHER ORDERED that Litchfield Park Service Company shall charge those  
3 customers in the extension area more fully described in Exhibit A its existing rates and charges until  
4 further Order by the Commission.

5 IT IS FURTHER ORDERED that the approval granted herein to Litchfield Park Service  
6 Company shall be conditioned upon Litchfield Park Service Company filing, with the Director of the  
7 Commission's Utilities Division, within 365 days of the effective of this Decision, a copy of a  
8 developer's Certificate of Assured Water Supply or the approval granted herein shall be rendered null  
9 and void without further Order by the Commission.

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

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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13   
14 CHAIRMAN COMMISSIONER COMMISSIONER

16 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
17 Secretary of the Arizona Corporation Commission, have  
18 hereunto set my hand and caused the official seal of the  
19 Commission to be affixed at the Capitol, in the City of Phoenix,  
20 this 15<sup>th</sup> day of January 2002.

21   
22 BRIAN C. McNEIL  
23 EXECUTIVE SECRETARY

24 DISSENT \_\_\_\_\_

25 MES:mlj

1 SERVICE LIST FOR: LITCHFIELD PARK SERVICE COMPANY  
2 DOCKET NOS. W-01427A-00-1004 and WS-01428A-00-1004

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EXTENSION AREA

Section 32, Township 2 North, Range 1 West, G&SRB&M, Maricopa County, Arizona, an area totaling 640 acres.

DELETION AREA

South One Half of the Northwest One Quarter of Section 6, Township 1 North, Range 1 West, G&SRB&M, Maricopa County, Arizona, and

South One Half of the North One Half, and the Southwest One Quarter of Section 1, Township 1 North, Range 2 West, G&SRB&M, Maricopa County, Arizona, an area totaling 400 acres.