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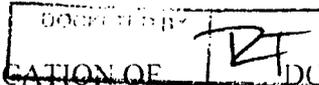
BEFORE THE ARIZONA CORPORATION C

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

Arizona Corporation Commission

DOCKETED

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IN THE MATTER OF THE APPLICATION OF THIM UTILITY CO. (E & T DIVISION) FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-03293A-00-0425

DECISION NO. 63196

OPINION AND ORDER

DATE OF HEARING: October 20, 2000  
PLACE OF HEARING: Tucson, Arizona  
PRESIDING OFFICER: Jane L. Rodda  
APPEARANCES: Robin Thim, President, Thim Utility Company; and  
Christopher Kempley, Assistant Chief Counsel, Arizona Corporation Commission, on behalf of the Utilities Division.

**BY THE COMMISSION:**

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

**FINDINGS OF FACT**

1. Thim Utility Company (E & T Division) ("TUC" or "Company") provides water utility service to approximately 274 customers in Pima County, Arizona.
2. On June 16, 2000, TUC filed an application to extend its Certificate of Convenience and Necessity ("CC&N" or "Certificate") to include an additional 3/4 of a section of land located contiguous to its current certificated area. The application requested a portion of Section 5 and a portion of Section 6 of Township 16S, Range 14E in Pima County.
3. TUC is seeking to extend its certificated area to acquire a new well site and to serve 34 customers currently being served by a private well.
4. On July 17, 2000, the Commission's Utilities Division Staff ("Staff") notified the Company that the application was sufficient.

1           5.       By Procedural Orders dated July 21, 2000 and October 5, 2000, the Commission set  
2 the matter for hearing at its offices in Tucson, Arizona on October 20, 2000.

3           6.       Staff filed its Staff Report on September 26, 2000, in which it recommended approval  
4 of the application.

5           7.       On August 11, 2000, TUC provided notice of the hearing by mailing notice to each of  
6 its customers and published the notice in a newspaper of general circulation in the proposed area on  
7 August 5, 2000.

8           8.       Testing of TUC's existing well has indicated a higher than permitted level of nitrates  
9 which has required the Company to blend its well water with water purchased from the City of  
10 Tucson to provide water with no maximum contaminant level ("mcl") violations. In Decision No.  
11 62651 (June 13, 2000) the Commission granted TUC an emergency rate increase because of the extra  
12 operating costs associated with purchasing water. Pursuant to Decision No. 62651, TUC filed for a  
13 permanent rate increase on August 15, 2000.<sup>1</sup>

14           9.       TUC believes that it's most cost effective solution to the nitrate problem is to acquire  
15 new well site. Arizona Department of Water Resource regulations require that TUC's new well site  
16 be located within its certificated area or within 660 feet of an existing transmission line.

17           10.      TUC plans to either acquire the existing well that serves a wildcat subdivision in  
18 Section 6 or to drill its own well in the proposed extension area to provide water for blending to serve  
19 its current customers and to serve the 34 homes currently receiving water from the private well. TUC  
20 reports that it has received a request for service from residents currently living in the proposed  
21 extension area.

22           11.      The Arizona Department of Environmental Quality ("ADEQ") reports that TUC is in  
23 violation of its regulations for failing to have an approved blending plan and for not submitting initial  
24 tests for lead and copper, and that consequently, it cannot determine if TUC is currently providing  
25 water that does not exceed any MCL and meets Safe Drinking Water Act quality standards.

26           12.      TUC reports that Pima County Department of Environmental Quality has approved its  
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28 <sup>1</sup> At the public comment session associated with the current application most of the customers who appeared made complaints about the rates, although they also expressed concern about the water quality.

1 blending plan, but that the approval is not reflected in ADEQ's records. Pursuant to a requirement  
2 contained in Decision No. 62651, TUC provided documentation that the lead and copper tests had  
3 been performed.

4 13. TUC is current on all property and sales taxes.

5 14. Staff recommended that only TUC's request that involves land in Section 6 be  
6 approved because currently there are no potential customers in Section 5, and because it is too  
7 speculative at this time whether TUC would locate a well in Section 5.

8 15. Staff further recommended that:

9 (a) The Commission condition approval of the application on TUC filing copies of  
10 its Approval to Construct from Pima County Department of Environmental Quality for its new well  
11 within 365 days of the effective date of this Decision:

12 (b) TUC be ordered to file with the Commission within 365 days from the  
13 effective date of this Decision, a report from ADEQ stating that the new water system meets the Safe  
14 Drinking Water Act quality standards:

15 (c) Within 180 days from the effective date of this Decision TUC submit  
16 documentation from ADEQ that states TUC has complied with ADEQ requirements for monitoring  
17 and quality standards and indicate that all plant deficiencies have been corrected for its existing  
18 system:

19 (d) This Decision covering the extension area be considered null and void without  
20 further order from the Commission should TUC fail to meet the above conditions within the time  
21 specified: and.

22 (e) TUC charge its existing rates and charges within the extension area.

23 16. The Company agreed to all of Staff's recommendations, except for Staff's  
24 recommendation that the extension area be limited to the land within Section 6.

### 25 CONCLUSIONS OF LAW

26 1. TUC is a public service corporation within the meaning of Article XV of the Arizona  
27 Constitution and A.R.S. §§ 40-281 and 40-282.

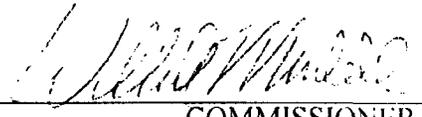
28 2. The Commission has jurisdiction over TUC and the subject matter of the application.



1 IT IS FURTHER ORDERED that Tim Utility Company shall charge its existing rates and  
2 charges within the extension area.

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

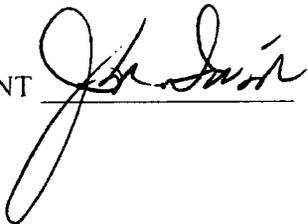
4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7	CHAIRMAN	COMMISSIONER	COMMISSIONER

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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 3<sup>rd</sup> day of November, 2000.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT   
JR:dap

1 SERVICE LIST FOR: THIM UTILITY COMPANY  
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EXHIBIT A

Legal Description of Extension Area

The W 1/2 of the SE 1/4 and the E 1/2 of the NE 1/4 of Section 6, Township 16S, Range 14E  
G&SRB&M.

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