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BEFORE THE ARIZONA CORPORATION COMMISSION

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

DOCKETED

JUN 30 2000

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IN THE MATTER OF THE APPLICATION OF  
KEATON DEVELOPMENT COMPANY FOR AN  
EXTENSION OF ITS EXISTING CERTIFICATE  
OF CONVENIENCE AND NECESSITY TO  
PROVIDE WATER SERVICE IN LA PAZ  
COUNTY, ARIZONA.

DOCKET NO. W-02169A-99-0292

DECISION NO. 62729

OPINION AND ORDER

9 DATE OF HEARING: May 2, 2000  
10 PLACE OF HEARING: Phoenix, Arizona  
11 PRESIDING OFFICER: Alicia B. Grantham  
12 APPEARANCES: Mr. Richard L. Sallquist, on behalf of Keaton Development Company;  
13 Robert Metli, Staff Attorney, Legal Division, on behalf of the Utilities  
14 Division of the Arizona Corporation Commission.

BY THE COMMISSION:

15 On June 10, 1999, Keaton Development Company ("Keaton" or "Applicant") filed with the  
16 Arizona Corporation Commission ("Commission") an application for approval to extend its  
17 Certificate of Convenience and Necessity ("Certificate") to provide water service for property in  
18 Maricopa County, Arizona.

19 On August 9, 1999, Keaton filed an errata sheet stating the extension was requested for  
20 property located in La Paz County, Arizona.

21 Keaton's application sought extension of its Certificate to include the West one-half of  
22 Section 21, Township 5 North, Range 13 West, except the Southwest one-quarter of the Southwest  
23 one-quarter, Gila and Salt River Base and Meridian. La Paz County, Arizona.

24 On December 13, 1999, the Commission Utilities Division ("Staff") filed its Staff Report  
25 recommending conditional approval of Keaton's extension request.

26 Pursuant to Procedural Order dated April 4, 2000, the matter was set for hearing on May 2,  
27 2000 in Phoenix, Arizona, and Applicant was ordered to publish notice of the application and hearing  
28

1 thereon.

2 On April 21, 2000, the Applicant filed Affidavits of Publication with Docket Control.

3 On April 27, 2000, the La Paz County Board of Supervisors ("Board") filed a Motion to  
4 Intervene ("Motion") in the above-captioned proceeding. There were no objections to the Motion,  
5 and intervention was subsequently approved at the hearing.

6 On May 2, 2000, a full public hearing was convened before a duly authorized Administrative  
7 Law Judge of the Commission at its offices in Phoenix, Arizona. Applicant entered an appearance by  
8 its attorney. Staff appeared with counsel. The Board did not appear. At the conclusion of the  
9 hearing, the matter was taken under advisement pending submission of a recommended Opinion and  
10 Order to the Commission.

11 On May 11, 2000, Consumer Services Division of the Commission docketed four letters  
12 received on April 25 and 27, 2000, from Keaton customers opposing the proposed extension.

13 On May 23, 2000, a Procedural Order was issued requesting Keaton's response to the  
14 customer concerns. On June 5, 2000, Keaton filed its response. On June 14, 2000, Staff filed  
15 comments to each of the responses submitted by Keaton.

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. Applicant is an Arizona corporation that provides water utility service to  
21 approximately 400 customers in the vicinity of Salome, La Paz County, Arizona pursuant to authority  
22 granted by the Commission in Decision No. 41705 (November 12, 1971).

23 2. On June 10, 1999, Keaton filed an application for an extension of its existing  
24 Certificate in order to provide water service to an area described as the West one-half of Section 21,  
25 Township 5 North, Range 13 West, except the Southwest one-quarter of the Southwest one-quarter,  
26 Gila and Salt River Base and Meridian, La Paz County, Arizona.

27 3. On April 21, 2000, Applicant filed certification that it had provided notice of the  
28 application and hearing thereon pursuant to the terms of the Procedural Order.

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4. In its application, Keaton seeks to include a section of land that is contiguous to its existing certificated area that is more fully described in Exhibit A which is attached hereto and incorporated by reference. Keaton stated it received a request for service from the landowner of the area described in Exhibit A.

5. Applicant stated that the property included in the proposed extension area will be developed as an expansion of the existing airpark. This area will consist of private roads used as taxiways to enable landowners to taxi from a nearby airstrip to their home. The streets will be under county specifications, but will not be in County's rights-of-way, so a County franchise is not necessary at this time.

6. Applicant stated that the facilities necessary to tie in from well site No. 2 over to the air park will not be in public rights-of-way, so there is no need for a county franchise at this time.

7. Applicant estimates that a total of 126 customers will be served in the proposed extension area described in Exhibit A.

8. Applicant does not have sufficient utility plant to provide water service to the areas described herein. Applicant is not in compliance with the Rules of the Arizona Department of Environmental Quality ("ADEQ"), due to inadequate storage. Keaton stated that the project approved in Decision No. 61268 (November 25, 1998), consisting of the intertie of two systems and the relocation of a 20,000 gallon storage tank, should be completed by July 15, 2000, bringing Keaton's system into compliance.

9. Applicant indicated that it would obtain approval of construction for the above project from ADEQ by September 30, 2000.

10. Applicant has not yet entered into any main extension agreements for the areas sought to be certificated herein, but upon their execution, will file them with Staff for its approval.

11. Applicant is in compliance with the Commission's filing requirements, is current on its sales taxes, however, it is not current on property taxes.

12. Applicant indicated upon receipt of funds from line extension agreements, it will become current on the overdue property taxes.

13. Applicant indicated that it would charge its existing rates and charges to prospective

1 customers in the proposed extension area.

2 14. Staff received letters from four of Keaton's customers opposing the extension of the  
3 Certificate. The customers complained that their water supply is periodically turned off for hours  
4 and/or days without notification, and that it is difficult to reach anyone by phone or have phone calls  
5 returned.

6 15. Keaton responded to the customer complaints by filing a response on June 5, 2000,  
7 stating that during times of construction, water may sometimes be unavailable for a short duration.  
8 Additionally, Keaton stated that voicemail will accept phone calls in the event no one is available in  
9 the office.

10 16. Staff recommended, in its comments to Keaton's June 5, 2000 response, that at any  
11 time Keaton has a planned outage, even for less than four hours, it should notify its customers.

12 17. Staff further recommended that Keaton have a 24-hour phone number for customer  
13 use in case of emergencies.

14 18. Staff recommended that the Commission condition approval on Keaton filing a copy  
15 of the developer's Adequacy Statement in the docket within 365 days from the effective date of the  
16 Commission's Decision.

17 19. Staff recommended that the Commission condition approval of the application on  
18 Keaton completing the plant improvements approved in Decision No. 61268 by September 1, 2000,  
19 and filing a copy of its approval of construction from ADEQ by September 30, 2000.

20 20. Staff recommended that Keaton file a copy of its approval of construction from ADEQ  
21 for the plant improvements approved in Decision No. 61268 before constructing any plant to serve  
22 the extension area.

23 21. Staff further recommended that Keaton file documentation with the Commission by  
24 September 30, 2000, indicating it is current on its property taxes.

25 22. Staff stated that Applicant is delivering water that does not exceed maximum  
26 contaminant level violations and meets the Safe Drinking Water Quality Act requirements.

27 23. No other public service corporation or municipality owned utility is currently  
28 providing water service in the proposed extension area.

**CONCLUSIONS OF LAW**

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2 1. Keaton is a public service corporation within the meaning of Article XV of the  
3 Arizona Constitution and A.R.S. §§ 40-301 and 40-302.

4 2. The Commission has jurisdiction over Keaton and the subject matter of the  
5 application.

6 3. Notice of the application was given in accordance with the law.

7 4. The public convenience and necessity require, and the public would benefit by, the  
8 extension of Keaton's certificate so that its certificated area includes the areas more fully described in  
9 Exhibit A.

10 5. Keaton is a fit and proper entity to provide water utility services in the proposed  
11 extension area, which is more fully described in Exhibit A.

12 6. Staff's recommendations set forth in Findings of Fact Nos. 16, 17, 18, 19, 20 and 21  
13 are reasonable and should be adopted.

**ORDER**

14  
15 IT IS THEREFORE ORDERED that the application of Keaton Development Company to  
16 extend its existing Certificate of Convenience and Necessity to the West one-half of Section 21,  
17 Township 5 North, Range 13 West, except the Southwest one-quarter of the Southwest one-quarter,  
18 of the Gila and Salt River Base and Meridian, La Paz County, Arizona, is hereby approved as  
19 conditioned below.

20 IT IS FURTHER ORDERED that Keaton Development Company shall complete the plant  
21 improvements approved in Decision No. 61268 by September 1, 2000, and file with the Commission  
22 a copy of its approval of construction from ADEQ for the improvements by September 30, 2000.

23 IT IS FURTHER ORDERED that Keaton Development Company shall not construct any  
24 plant to serve the extension area until the approval of construction from ADEQ for plant  
25 improvements approved in Decision No. 61268 is filed with the Commission.

26 IT IS FURTHER ORDERED that Keaton Development Company shall become current on its  
27 property taxes and file documentation with the Commission indicating payment by September 30,  
28 2000.

1 IT IS FURTHER ORDERED that Keaton Development Company shall file with the  
2 Commission a copy of the developer's Adequacy Statement within 365 days from the effective date  
3 of the Commission's Decision.

4 IT IS FURTHER ORDERED that failure by Keaton Development Company to meet the  
5 above conditions will result in the extension of its Certificate of Convenience and Necessity being  
6 considered null and void without further Order of the Commission.

7 IT IS FURTHER ORDERED that when Keaton Development Company plans to interrupt  
8 service for any period of time, it shall make a reasonable effort to notify its customers. In the event a  
9 planned service interruption to perform maintenance and/or repairs shall be more than four hours,  
10 Keaton shall comply with A.A.C. R14-2-407.C and notify its affected customers at least 24 hours in  
11 advance of the scheduled date and estimated duration of the service interruption.

12 IT IS FURTHER ORDERED that Keaton Development Company shall maintain a 24-hour  
13 phone number for customer use in case of emergencies.

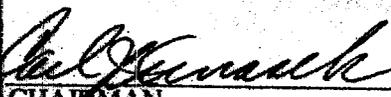
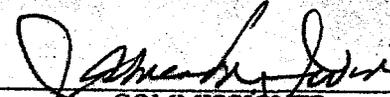
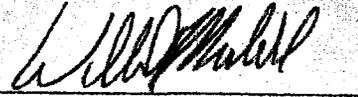
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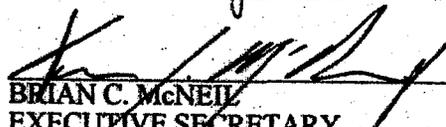
IT IS FURTHER ORDERED that Keaton Development Company shall charge its existing rates and charges under its terms and conditions within the extension area.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

		
CHAIRMAN	COMMISSIONER	COMMISSIONER

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 20<sup>th</sup> day of June 2000.

  
 BRIAN C. McNEIL  
 EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
AG:bbs

1 SERVICE LIST FOR:

KEATON DEVELOPMENT COMPANY

2 DOCKET NO.

W-02169A-99-0292

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EXHIBIT A

The West one-half of Section 21, Township 5 North, Range 13 West, except the Southwest one-quarter of the Southwest one-quarter, Gila and Salt River Base and Meridian, La Paz County, Arizona.

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