

OPEN MEETING ITEM
ORIGINAL



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



ARIZONA CORPORATION COMMISSION

DATE: September 21, 2005
DOCKET NO: W-01376A-04-0463 and W-01676A-04-0500

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amy Bjelland. The recommendation has been filed in the form of an Order on:

PINEVIEW WATER COMPANY, INC.
(AMEND DECISION NO. 67989)

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:

SEPTEMBER 28, 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:

TO BE DETERMINED

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 Director's Office at (602) 542-3931.

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AZ CORP COMMISSION
DOCUMENT CONTROL

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

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

9 IN THE MATTER OF THE APPLICATION OF
10 PINEVIEW WATER COMPANY, INC. FOR
11 AUTHORITY TO ISSUE PROMISSORY NOTE(S)
12 AND OTHER EVIDENCE OF INDEBTEDNESS
13 PAYABLE AT PERIODS OF MORE THAN
14 TWELVE MONTHS AFTER THE DATE OF
15 ISSUANCE.

DOCKET NO. W-01676A-04-0463

16 IN THE MATTER OF THE APPLICATION OF
17 PINEVIEW WATER COMPANY, INC. FOR AN
18 INCREASE IN ITS WATER RATES FOR
19 CUSTOMERS WITHIN NAVAJO COUNTY,
20 ARIZONA.

DOCKET NO. W-01676A-04-0500

DECISION NO. _____

ORDER AMENDING DECISION NO.
67989

21 Open Meeting

22 Phoenix, Arizona

23 **BY THE COMMISSION:**

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

26 **FINDINGS OF FACT**

27 1. On June 18, 2004, Pineview Water Company, Inc. ("Pineview") filed the above-
28 captioned application with the Arizona Corporation Commission ("Commission") for authority to
issue promissory note(s) and other evidences of indebtedness payable at periods of more than twelve
months after the date of issuance not to exceed \$730,978.

2. On July 9, 2004, Pineview filed the above-captioned rate application with the
Commission.

3. The matters were consolidated on January 12, 2005. A hearing was held on the
consolidated applications on February 24 and 25, and March 3, 2005.

1 4. On July 18, 2005, the Commission issued Decision No. 67989 in the consolidated
2 dockets. Among other things, the Decision authorized Pineview to issue up to \$577,578 in long
3 term debt from the Arizona Water Infrastructure Financing Authority ("WIFA") on the terms
4 proposed by Pineview, for a term not to exceed twenty years and at an interest rate not to exceed
5 4.20 percent, for the purposes of funding capital projects as described in Findings of Fact No. 38 of
6 the Decision.

7 5. Pineview filed exceptions to the Recommended Opinion and Order in this proceeding,
8 but did not take exception to the fact that the Recommended Opinion and Order granted the interest
9 rate the Company requested.

10 6. On August 25, 2005, Pineview filed a Motion for an Order Nunc Pro Tunc
11 ("Motion"). Pineview states in the Motion that the applicable WIFA interest rate is no longer 4.20
12 percent, but is now instead 6.20 percent, and requested the issuance of an Order Nunc Pro Tunc to
13 change the authorized interest rate on the financing approved in Decision No. 67989.

14 7. On September 15, 2005, Staff filed a Response to the Motion, objecting to the
15 issuance of an Order Nunc Pro Tunc on the grounds that Pineview's request constituted more than
16 the correction of a typographical or stenographical error.

17 8. On September 9, 2005, Pineview filed a Motion to Amend, Withdrawal of Request for
18 an Order Nunc Pro Tunc, and Request for Expedited Processing ("Second Motion"). The Second
19 Motion states that WIFA advised Pineview that funds currently available cannot be obtained within
20 the interest rate authorization set forth in Decision 67989; WIFA advised Pineview that the interest
21 rate is currently, and typically has been, at the Prime Rate plus 2 percent. Pineview states that the
22 interest rate formula now requires a 6.38 percent interest rate. Pineview asserts that the increase in
23 the interest rate will not substantially or adversely impact its cash flows, its ability to perform under
24 the loan, or its ability to fulfill its public service obligations.

25 9. The financing authorization granted in Decision No. 67989 was based on the financial
26 analysis of the Commission's Utilities Division Staff ("Staff"). Staff's recommendation was that the
27 requested financing be approved "on the terms and conditions consistent with or better than those
28 used in Staff's pro forma analysis" (Exh. S-2, Direct Testimony of J.H. Johnson, at 2). Staff's pro

1 forma analysis was based on an interest rate of 5.60 percent (Exh. S-12, Exhibit A Memorandum at
2 2).

3 10. On September 15, 2005, Staff filed a Staff Report recommending approval of
4 Pineview's request to amend Decision No. 67989.

5 11. On September 19, 2005, Staff filed an amendment to its Staff Report.

6 12. The Debt Service Coverage ("DSC") ratio represents the number of times internally
7 generated cash will cover required principal and interest payments on long-term debt. A DSC ratio
8 greater than 1.0 means that operating cash flow is sufficient to cover debt obligations. A DSC less
9 than 1.0 means that debt service obligations cannot be met from operations and that another source
10 of funds is needed to avoid default.

11 13. The Times Interest Earned Ratio ("TIER") represents the number of times earnings
12 will cover interest expense on short-term and long-term debt. A TIER greater than 1.0 means that
13 operating income is greater than interest expense. A TIER of less than 1.0 is not sustainable in the
14 long term but does not necessarily mean that debt obligations cannot be met in the short term.

15 14. Staff's recalculation of Pineview's pro forma TIER and DSC using Pineview's
16 interest rate of 6.38 percent as proposed in the Second Motion shows a pro forma TIER of 1.05 and
17 a revised pro forma DSC of 1.97. Based on its analysis, Staff determined that the revenues approved
18 in Decision No. 67989 are sufficient to cover the \$577,578 WIFA loan at an interest rate of 6.38
19 percent.

20 15. Based on its review and analysis, Staff concluded that issuance of debt in the amount
21 of \$577,578 at an interest rate of 6.38 percent is within Pineview's corporate powers, compatible
22 with the public interest, compatible with sound financial practices, and will not impair its ability to
23 perform service.

24 16. Staff recommends granting Pineview's request to authorize an interest rate of 6.38
25 percent instead of the 5.20 percent authorized in Decision No. 67989, on the financing approved in
26 that Decision.

27 17. Staff's recommendations are reasonable and in the public interest and should be
28 adopted.

1 18. Aside from the change in the authorized interest rate, the financing authorizations
2 approved in Decision No. 67989, the associated filing requirements, and all other Findings of Fact
3 and Conclusions of Law set forth in Decision No. 67989, should remain otherwise unchanged.

4 **CONCLUSIONS OF LAW**

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

7 2. The Commission has jurisdiction over Pineview and the subject matter of the
8 application.

9 3. It is in the public interest to amend Decision No. 67989 for the sole purpose of
10 authorizing WIFA's current interest rate of 6.38 percent in place of the 5.20 percent interest rate
11 requested in the financing application.

12 4. The amendment approved herein does not change the findings of Decision No. 67989
13 that the financing approved therein is for lawful purposes within Pineview's corporate powers, is
14 compatible with the public interest, with sound financial practices and with the proper performance
15 by Pineview as a public service corporation, and will not impair Pineview's ability to perform that
16 service.

17 5. The amendment to Decision No. 67989 approved herein does not change the findings
18 of Decision No. 67989 that the financing approved therein is for the purposes of funding capital
19 projects as described in Findings of Fact No. 38 of Decision No. 67989, is reasonably necessary for
20 those purposes, and such purposes are not wholly or in part reasonably chargeable to operating
21 expenses or to income.

22 **ORDER**

23 IT IS THEREFORE ORDERED that Decision No. 67989 (July 18, 2005) shall be, and is
24 hereby amended to change the interest rate authorized on the financing approved in Decision No.
25 67989 from 5.20 percent to not greater than 6.38 percent.

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that the financing authorizations approved in Decision No.
2 67989, the associated filing requirements, and all other Findings of Fact, Conclusions of Law, and
3 ordering paragraphs set forth in Decision No. 67989, shall remain otherwise unchanged.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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8 CHAIRMAN

COMMISSIONER

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11 COMMISSIONER

COMMISSIONER

COMMISSIONER

12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
13 Director of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this ____ day of _____, 2005.

17 BRIAN C. McNEIL
EXECUTIVE DIRECTOR

18 DISSENT _____

19
20
21 DISSENT _____

1 SERVICE LIST FOR: PINEVIEW WATER COMPANY, INC.
2 DOCKET NO.: W-01676A-04-0463 and W-01676A-04-0500

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