

OPEN MEETING ITEM



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

ORIGINAL



ARIZONA CORPORATION COMMISSION

22

DATE: September 27, 2005

DOCKET NO: W-03514A-05-0352

TO ALL PARTIES:

Enclosed please find the recommendation of Assistant Chief Administrative Law Judge Dwight D. Nodes. The recommendation has been filed in the form of an Order on:

PAYSON WATER COMPANY, INC. – GERONIMO SYSTEM
(APPLICATION FOR VARIANCE BY POTENTIAL CUSTOMER)

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:

OCTOBER 6, 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 Open Meeting to be held on:

OCTOBER 18 AND 19, 2005

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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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 BY A
10 POTENTIAL CUSTOMER, MR. STEVEN P.
11 PRAHIN, FOR A VARIANCE TO THE
12 MORATORIUM ON NEW WATER METER
13 CONNECTIONS FOR PAYSON WATER
14 COMPANY, INC.'S GERONIMO SYSTEM.

DOCKET NO. W-03514A-05-0352

DECISION NO. _____

ORDER

11 Open Meeting
12 October 18 and 19, 2005
13 Phoenix, Arizona

BY THE COMMISSION:

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

16 **FINDINGS OF FACT**

17 1. On May 17, 2005, Mr. Steven P. Prahin filed a letter with the Arizona Corporation
18 Commission ("Commission") requesting a variance to the moratorium on new water customer hook-
19 ups in effect for United Utilities, Inc. dba Payson Water Co., Inc. - Geronimo System ("Payson
20 Water" or "Company"). Mr. Prahin owns lot No. 6 in the Elusive Acres subdivision, a housing
21 development located approximately five miles north of Payson, Arizona, and within the service area
22 of Payson Water's Geronimo System.

23 2. The moratorium on new service connections was implemented by Decision No. 57584
24 (October 11, 1991), which limited the former United Utilities, Inc. ("United") Geronimo System to
25 serving no more than 60 service connections. The Geronimo System had previously been limited to
26 no more than 45 service connections pursuant to Decision No. 52454 (September 18, 1981).

27 3. Decision No. 57584 directed United to submit an engineering and design study to
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1 explain the steps that would be undertaken in the Geronimo System to permanently lift the
2 moratorium. Although United's former owner, Mr. Richard Williamson, submitted a study on
3 December 10, 1991, the Commission's Utilities Division Staff ("Staff") found that the study did not
4 contain necessary technical data to demonstrate a sufficient availability of water to justify lifting the
5 60 service connection limit.

6 4. According to the Staff Report filed in Docket No. W-01993A-04-0428¹, United
7 submitted a letter on February 8, 1996 stating that the Geronimo System was serving 66 service
8 connections as of December 1995. The letter received by Staff claimed that only 61 connections
9 were being served by the Geronimo System and the other five customers were part of a separate
10 system called Elusive Acres, which United asserted was not subject to the moratorium. However,
11 Staff stated its belief that the Geronimo Estates and Elusive Acres subdivisions were being served by
12 a single water system and both subdivisions were therefore subject to the moratorium.

13 5. Staff also stated in that prior Staff Report that it sent a letter to Mr. Williamson on
14 March 1, 1996 informing him that the Geronimo System was in violation of the 60 connection limit.
15 Staff directed Mr. Williamson to conduct a system monitoring study over a 12-month period and to
16 submit the results of the study. The Staff Report indicated that Staff intended to evaluate the
17 monitoring study to determine if the moratorium could be amended. However, Mr. Williamson never
18 submitted the required study.

19 6. In Decision No. 60972 (June 19, 1998), Brooke Utilities, Inc. ("Brooke Utilities") was
20 authorized to acquire United from Richard Williamson, and United was organized into three
21 operating companies: Payson Water Company; Strawberry Water Co., Inc.; and Tonto Basin Water
22 Co., Inc. Payson Water serves the Geronimo Estates subdivision and the Elusive Acres subdivision,
23 where Mr. Prahin seeks to initiate service.

24 7. This recent prior docket resulted in the issuance of Decision No. 67747 (April 11,
25 2005), in which the Commission granted a variance to the moratorium to one customer, subject to the
26 requirement that Payson Water conduct a system monitoring exercise for 12 months following the

27 ¹ This recent docket involved a prior request for variance from the Payson Water moratorium and resulted in Decision No.
28 67747 (April 11, 2005). That Decision is discussed below in more detail.

1 effective date of that Decision, and that the Company submit the following data based on the study:
2 monthly static water levels from both wells; number of gallons pumped per month from each well;
3 number of gallons sold per month; and number of active and inactive connections per month. In that
4 Decision, the Commission specifically stated that “no additional new service connections shall be
5 permitted on the Geronimo System until the data is received and reviewed by Staff, and an Order is
6 issued by the Commission allowing additional service connections, unless otherwise ordered by the
7 Commission” (Decision No. 67747, at 5, emphasis added).

8 8. As stated in Decision No. 67747, the water monitoring study requested in 1996 was
9 never submitted. According to Staff, Payson Water was not aware of the 1996 letter from Staff
10 because the transfer of ownership from United to Brooke Utilities/Payson Water was in the process at
11 that time. In response to Staff data requests in that proceeding, Payson Water submitted Water Use
12 Data Sheets for the Geronimo System showing 68 service connections and 73 active accounts², and a
13 “Consumption by Customer” spreadsheet (*Id.* at 3).

14 9. According to the Staff Report in Docket No. W-01993A-04-0428, an October 29,
15 2004 compliance report from the Arizona Department of Environmental Quality (“ADEQ”) indicated
16 that Payson Water’s Geronimo System (PWS No. 04-028) was then delivering water that meets the
17 water quality standards required by ADEQ rules and regulations.

18 10. On July 6, 2005, a Procedural Order was issued in this matter stating that “[g]iven the
19 Commission’s directive [in Decision No. 67747] that no new connections will be permitted until the
20 water usage data study is completed and reviewed, and an Order is issued by the Commission
21 amending the moratorium, it does not appear that there is any basis for granting the requested
22 waiver.” However, the Procedural Order directed Staff to file a response regarding the waiver
23 request.

24 11. On July 13, 2005, Staff filed a Response to Requested Variance recommending denial
25 of the request based on Decision No. 67747. Staff pointed out that Payson Water has been directed to
26 conduct a system usage monitoring exercise for a 12-month period, and the results of that study will

27 ² The data provided to Staff showed that, during the peak usage month, the Geronimo System had 73 active accounts – 61
28 accounts that used water and 12 accounts that had no usage (Decision No. 67747, at 3).

1 not be available to Staff until, at the earliest, April 2006. According to Staff, some additional time
2 will be needed to evaluate the information submitted by the Company, followed by a Commission
3 Decision addressing whether additional water hook-ups should be permitted.

4 12. By Procedural Order issued July 14, 2005, Mr. Prahin was directed to file a reply to
5 Staff's recommendation to deny the requested variance.

6 13. On August 11, 2005, Mr. Prahin filed a letter confirming that his property is in Elusive
7 Acres, a 30-lot subdivision served by Payson Water. Mr. Prahin contends that two other lots in the
8 subdivision have received connections within the past year (prior to issuance of Decision No. 67747),
9 and he believes there is sufficient capacity available to serve his lot and others in Elusive Acres. In a
10 final statement, Mr. Prahin claims that owners in the surrounding subdivisions have donated funds to
11 build a fire hall in the area and, although "[t]he building and trucks are in place, [and] the water box
12 is in place, the meter to supply water to the fire hall is not at this time."

13 14. For the reasons stated in Decision No. 67747 and discussed herein, Mr. Prahin's
14 request for a variance of the current moratorium on new service connections is denied³.

15 CONCLUSIONS OF LAW

16 1. Payson Water is a public service corporation within the meaning of Article XV of the
17 Arizona Constitution and A.R.S. §§40-201, 40-202, and 40-203.

18 2. The Commission has jurisdiction over Payson Water and the subject matter of the
19 application.

20 3. Modification of the moratorium on additional service connections for Payson Water's
21 Geronimo System is not in the public interest and should be denied.

22 ³ It is not clear whether service for the "fire hall" has been requested of Payson Water, and we have no request pending
23 for a variance for such a facility. In the even that a need for water service to a legitimate emergency service provider
24 were to be established, we would consider a variance request for such a facility based on the facts presented. However,
25 no additional variances for residential or commercial hook-ups will be granted for Payson Water Company's Geronimo
26 System, including the Geronimo Estates and Elusive Acres subdivision, until the water data usage study has been
27 completed by the Company, reviewed by Staff, and a further Order is issued by the Commission lifting the moratorium.
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ORDER

IT IS THEREFORE ORDERED that, in accordance with Decision No. 67747 and the discussion set forth herein, the variance request submitted by Mr. Steven Prahin is denied.

IT IS FURTHER ORDERED that, in accordance with Decision No. 67747, Payson Water Co., Inc. is directed to conduct a system monitoring exercise for 12 months following the effective date of Decision No. 67747 and submit the following data based on that study: monthly static water levels from both wells; number of gallons pumped per month from each well; number of gallons sold per month; and number of active and inactive connections per month. The system monitoring report shall be filed with Docket Control within 30 days following completion of the monitoring exercise.

IT IS FURTHER ORDERED that no additional new service connections shall be permitted on the Geronimo System, including the Geronimo Estates and Elusive Acres subdivisions, until the data is received and reviewed by Staff, and an Order is issued by the Commission allowing additional service connections, unless otherwise ordered by the Commission.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director 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 ____ day of _____, 2005.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

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SERVICE LIST FOR: Payson Water Company

DOCKET NO.: W-03514A-05-0352

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