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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

SEP 30 2005

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF PALO VERDE UTILITIES COMPANY, LLC, FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WASTEWATER SERVICE.

DOCKET NO. SW-03575A-04-0767

IN THE MATTER OF THE APPLICATION OF SANTA CRUZ WATER COMPANY, LLC, FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER SERVICE.

DOCKET NO. W-03576A-04-0767

DECISION NO. 68186

SUPPLEMENTAL OPINION AND ORDER REGARDING PERFORMANCE BOND REQUIREMENTS

DATE OF HEARING: July 20, 2005
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes
APPEARANCES: Mr. Michael W. Patten, ROSHKA HEYMAN & DEWULF, PLC, on behalf of Applicants; and Mr. David Ronald, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

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. On October 25, 2004, Palo Verde Utilities Company ("Palo Verde") and Santa Cruz Water Company ("Santa Cruz") (jointly "Applicants") filed an application in the above-captioned dockets seeking to extend their Certificates of Convenience and Necessity ("CC&N") to provide

1 wastewater and water service, respectively, to a 4,900 acre area located in the City of Maricopa, in
2 Pinal County, Arizona. The extension area is expected to be developed into several master planned
3 communities comprised of over 17,000 homes.

4 2. Palo Verde and Santa Cruz are Arizona limited liability companies (“LLCs”) engaged
5 in providing wastewater utility service to approximately 3,300 customers and water utility service to
6 approximately 3,400 customers, respectively, in the City of Maricopa, in Pinal County, Arizona. The
7 Applicants are currently adding customers at a rate of approximately 300 service connections per
8 month.

9 3. The original CC&Ns for Palo Verde and Santa Cruz were granted by the Commission
10 in Decision No. 61943 (September 17, 1999). The Applicants were granted extensions of their
11 CC&Ns in Decision Nos. 66394 (October 6, 2003) and 67240 (September 23, 2004).

12 4. The Applicants are wholly owned subsidiaries of Global Water Resources, LLC
13 (“GWR”), a utility holding company engaged in the business of acquiring utility companies. GWR
14 recently purchased Cave Creek Water Company, on March 3, 2005, and since January 31, 2005 has
15 been acting as the Interim Manager for Sabrosa Water Company. GWR’s subsidiaries currently
16 provide water and/or wastewater service to approximately 10,000 customers in Arizona.

17 5. The \$750,000 per company performance bond requirement was imposed in Decision
18 No. 67240 (September 23, 2004) for a minimum period of five years. In Decision No. 67830 (May 5,
19 2005), the Commission granted the Applicants’ CC&N extension requests in the above-captioned
20 dockets, subject to several conditions, including a requirement that Palo Verde and Santa Cruz each
21 maintain a performance bond of \$750,000.

22 6. During the discussion of the above-captioned dockets at the Commission’s May 3,
23 2005 Open Meeting, questions were raised regarding the need for maintaining the substantial
24 performance bond by Palo Verde and Santa Cruz.

25 7. On May 10, 2005, Commissioner Spitzer filed a letter in the dockets requesting that
26 the Hearing Division issue a Procedural Order to consider the merits of reducing the time for
27 maintaining the performance bonds from five years to two years (from the date of Decision No.
28 67240 – *i.e.*, September 23, 2004).

1 8. On May 12, 2005, Chairman Hatch-Miller filed a letter addressing Commissioner
2 Spitzer's proposal and indicating that the issue should be raised at a Commission Staff Meeting.

3 9. On May 12, 2005, Commissioner Mundell filed a letter stating that he believes it is
4 appropriate to re-evaluate whether the bond requirement is in the public interest. Commissioner
5 Mundell suggested that the Hearing Division should issue a Procedural Order establishing a
6 discovery and briefing schedule, and that evidence should be presented by the parties to support their
7 respective positions prior to the Commission's modification or elimination of the performance bond.

8 10. During the Commission's May 17, 2005 Staff Meeting, the Commissioners voted to
9 direct the Hearing Division to issue a Procedural Order scheduling an evidentiary hearing on the
10 performance bond issue.

11 11. By Procedural Order issued June 2, 2005, a hearing was scheduled for July 20, 2005 to
12 consider the performance bond issue. The Applicants and the Commission's Utilities Division Staff
13 ("Staff") were directed to file testimony by July 8, 2005.

14 12. Testimony was filed on July 8, 2005 on behalf of the Applicants by Trevor Hill, the
15 President and CEO of GWR (Ex. A-1). Testimony was filed on July 8, 2005 on behalf of Staff by
16 Blessing Chukwu (Ex. S-1).

17 13. The hearing was held as scheduled on July 20, 2005. At the hearing, Trevor Hill
18 testified on behalf of the Applicants. Blessing Chukwu and Dorothy Hains testified on behalf of
19 Staff.

20 14. Mr. Hill testified that the performance bond requirement should be eliminated for the
21 following reasons: 1) The Applicants' former president and owner, David Reinbold, has no financial
22 interest or control over the operations of Palo Verde and Santa Cruz, and thus the original cause of
23 concern – a \$61 million civil lawsuit judgment entered against Mr. Reinbold by an Oregon court –
24 was no longer a factor in the performance bond consideration; 2) the Supplemental Staff Report in
25 the Applicants' prior CC&N extension docket (Decision No. 67240) did not accurately reflect
26 GWR's principals' (*i.e.*, Messrs. Hill, Commandeur and Symmonds) technical and managerial
27 capabilities and experience with respect to the Canadian projects that had been undertaken by Hill,
28 Murray & Associates; 3) Under GWR's control, Palo Verde and Santa Cruz have a demonstrated

1 history of providing quality service to their customers, even with the exceptional growth rate being
2 experienced in the Applicants' service area; 4) Palo Verde and Santa Cruz are locally owned and
3 operated by GWR, which is 100 percent investor managed, and the local management is involved in
4 day-to-day operations of the companies; 5) Palo Verde and Santa Cruz have highly skilled personnel
5 that GWR makes significant efforts to retain; 6) GWR is extremely well capitalized¹, which assists in
6 efforts to provide needed infrastructure and system upgrades; and 7) Palo Verde and Santa Cruz have
7 met and continue to meet all of the conditions imposed by the Commission and other regulatory
8 bodies (Ex. A-1, at 3-8).

9 15. Mr. Hill also touted other actions undertaken by GWR and the Applicants as evidence
10 of efforts to serve the public interest. Mr. Hill indicated that GWR, at the request of the
11 Commission's Staff, agreed to be appointed as the interim manager of Sabrosa Water Company
12 ("Sabrosa"), a troubled utility company that was abandoned by its former owner. Mr. Hill pointed to
13 the proactive steps taken by GWR to mitigate the ongoing problems with the Sabrosa system. Mr.
14 Hill also stated that GWR has taken steps to achieve its goal of providing environmentally
15 responsible water and wastewater services, as evidenced by its requirement that developers use
16 reclaimed water for all outdoor irrigation uses. Finally, Mr. Hill indicated that Palo Verde and Santa
17 Cruz have continued to engage in community outreach to keep customers informed of developments
18 and to educate customers on ways to conserve water. He also claims that the Applicants have added
19 automatic debit and credit card payment programs as a convenience to customers (*Id.*, at 8-9).

20 16. At the hearing, Mr. Hill testified that GWR has obtained the required \$1.5 million
21 performance bond (\$750,000 per company) on behalf of Palo Verde and Santa Cruz by paying annual
22 bond premiums that range between 1 and 2 percent of the bond amount per year. He stated that,
23 although the bonds are becoming more difficult to obtain, GWR was able to obtain the bonds at the
24 stated rates due to its strong capitalization and personal guarantees by himself and Mr. Levine (Tr.
25 14-18). In his direct testimony, Mr. Hill requested that the bond requirement be eliminated because it
26 was no longer necessary. On cross-examination, he stated that GWR does not oppose Staff's

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28 ¹ Mr. Hill testified that GWR is capitalized with 100 percent equity and has no long-term debt. 48.5 percent of GWR's equity is owned by William Levine, approximately 25 percent by Mr. Hill, and the balance by others (Tr. 16-18).

1 recommendation that the bond requirement should be eliminated as of September 23, 2006 (*i.e.*, 2
2 years from the effective date of Decision No. 67240) (Tr. 60-61). However, the Applicants request
3 that the bond requirement should expire automatically as of that date, rather than an additional filing
4 requirement being imposed for removal of the bond (Tr. 62).

5 17. Staff's witness, Ms. Chukwu, testified that the current performance bonds should
6 continue to be maintained by Palo Verde and Santa Cruz for the remainder of the two-year period
7 from the effective date of Decision No. 67240, which is consistent with Staff's recommendation in
8 the prior docket. Staff therefore recommends that: 1) the current \$750,000 per company bond should
9 remain in place for at least two years from the effective date of Decision No. 67240; 2) the bond
10 requirement should remain in place until the Commission specifically approves a reduction or
11 elimination request application; and 3) the Applicants should provide evidence of the ongoing
12 maintenance of the bonds, on a quarterly basis, to ensure that customer interests are protected (Ex. S-
13 1, at 6).

14 **Conclusion**

15 18. With respect to the Applicants' water and wastewater operations, Santa Cruz has
16 adequate production capacity to serve its existing customers and expected growth. Santa Cruz is
17 working with an outside consultant to develop an arsenic treatment plan for the company's system,
18 which has only one well that is marginally above the new federal maximum contaminant levels that
19 become effective in 2006. Santa Cruz intends to meet the new EPA requirements through a blending
20 process that will have only a minimal cost, and the company does not expect to seek recovery of any
21 arsenic compliance costs through rates. Santa Cruz expects to be in full compliance with the new
22 EPA standards prior to their effective date (Decision No. 67830, at 6-7).

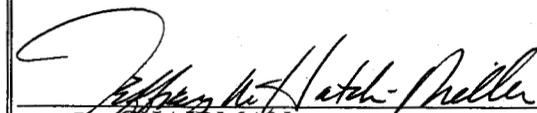
23 19. With respect to the wastewater infrastructure, Palo Verde operates "state of the art"
24 facilities that produce A+ grade effluent. Palo Verde has received no odor complaints from
25 customers, including customers located adjacent to the wastewater treatment facility site (*Id.* at 7).
26 Further, as Mr. Hill explained, Palo Verde requires all developers in its service area to take back an
27 amount of effluent equal to the amount of wastewater sent to the company's treatment facilities,
28 which effluent is used for irrigation of the developers' common areas.

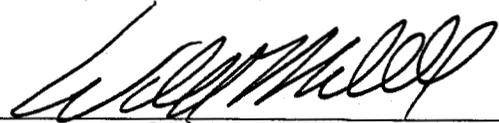
1 IT IS FURTHER ORDERED that the Applicants shall file a notice of the performance bonds'
2 cancellation with Docket Control within 30 days of their expiration date of September 23, 2006.

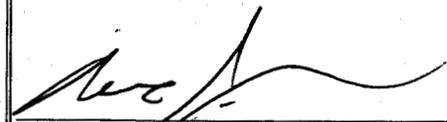
3 IT IS FURTHER ORDERED that, in all other respects, the conditions of approval for the
4 Applicants' CC&N extension request set forth in Decision No. 67830 (May 5, 2005) shall remain in
5 full force and effect.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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10 CHAIRMAN

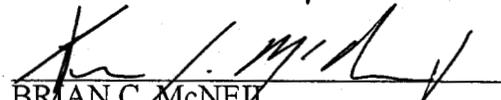

COMMISSIONER

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COMMISSIONER


COMMISSIONER

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15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
16 Director of the Arizona Corporation Commission, have
17 hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of Phoenix,
19 this 30th day of Sept., 2005.

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19 BRIAN C. McNEIL
20 EXECUTIVE DIRECTOR

21 DISSENT _____

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SERVICE LIST FOR:

PALO VERDE UTILITIES COMPANY AND SANTA
CRUZ WATER COMPANY

DOCKET NOS.:

SW-03575A-04-0767 and W-03576A-04-0767

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