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BEFORE THE ARIZONA CORPORATION COMMISSION

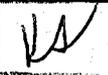
Arizona Corporation Commission

COMMISSIONERS

DOCKETED

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

NOV 14 2005

DOCKETED BY 

IN THE MATTER OF ARIZONA WATER
COMPANY'S APPLICATION TO EXTEND ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY IN MARICOPA COUNTY.

DOCKET NO. W-01445A-05-0381

DECISION NO. 68301

OPINION AND ORDER

DATE OF HEARING: August 23, 2005
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey
APPEARANCES: Robert W. Geake, on behalf of Arizona Water Company; and
Mr. David Ronald, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On May 27, 2005, Arizona Water Company ("AWC" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide water service in an unincorporated area located near the White Tank Mountains in Maricopa County.

On June 24, 2005, the Staff of the Commission's Utilities Division ("Staff") filed a letter indicating that Applicant's application has met the sufficiency requirements as outlined in the Arizona Administrative Code.

On June 29, 2005, by Procedural Order, a hearing was scheduled for August 23, 2005.

On July 14, 2005, AWC filed certification that it had provided notice of the application and hearing in accordance with the Commission's Procedural Order.

On July 29, 2005, Staff filed its Staff Report.

On August 16, 2005, Applicant filed its objections to the Staff Report.

1 On August 23, 2005, a full public hearing was held before a duly authorized Administrative
 2 Law Judge of the Commission at its offices in Phoenix, Arizona. AWC and Staff appeared with
 3 counsel and presented evidence and testimony. No members of the public appeared to give public
 4 comment. At the conclusion of the hearing, the matter was taken under advisement pending
 5 submission of a recommended Opinion and Order to the Commission.

6
 7 * * * * *

8 Having considered the entire record herein and being fully advised in the premises, the
 9 Commission finds, concludes, and orders that:

10 FINDINGS OF FACT

11 1. AWC is an Arizona corporation that provides water utility service to approximately
 12 75,000 customers in eight counties in Arizona. AWC was granted its Certificate in Decision No.
 13 28794 (March 1955).

14 2. On May 27, 2005, AWC filed an application for an extension of its existing Certificate
 15 for its White Tank system. The White Tank system serves approximately 1,340 customers. The
 16 proposed extension area includes 108.474 acres in an unincorporated area near the White Tank
 17 Mountains, near Goodyear, Arizona and is adjacent at two points to the White Tank system, which is
 18 more accurately described in Exhibit A, attached hereto and incorporated herein by reference.

19 3. On June 29, 2005, a Procedural Order was issued setting the matter for hearing on
 20 August 23, 2005 and setting various other procedural deadlines.

21 4. On July 14, 2005, AWC filed a Certificate of Notice indicating that all property
 22 owners in the proposed extension area were mailed notice of the application and hearing date.

23 5. No intervention requests or objections to the application were filed.

24 6. On July 29, 2005, Staff filed its Staff Report in this matter recommending approval of
 25 the application, subject to certain conditions. Specifically, Staff recommended that:

- 26 • AWC file a copy of the developer's Certificate of Assured Water Supply for
 27 the proposed extension area, where applicable or when required by statute,
 28 within 365 days of a Decision in this matter;

- 1 ● AWC file its Approval to Construct and its main extension agreement within
- 2 365 days of a Decision in this matter;
- 3 ● AWC charge its authorized White Tank system rates and charges in the
- 4 extension area; and
- 5 ● AWC's Certificate be considered null and void without further order of the
- 6 Commission should AWC fail to meet the above conditions within the time
- 7 specified.

8 7. AWC filed an objection to Staff's Report requesting to modify the time frame for the
9 company to file its Approval to Construct, the developer's Certificate of Assured Water Supply and
10 its main extension agreement from one year to two years.

11 8. The hearing was held as scheduled on August 23, 2005. At the hearing, Staff offered a
12 verbal amendment to its Staff Report that AWC file its Certificate of Assured Water Supply,
13 Approval to Construct and main extension agreement within two years of a Decision in this matter.
14 AWC agreed to abide by all of Staff's recommendations as modified.

15 9. AWC has received a service request from Westpac Development Corporation to
16 extend its water service to a community called Amber Meadows and is projected to provide service
17 for approximately 18 customers within five years.

18 10. Staff's Report states that the existing White Tank water system is comprised of four
19 wells, with production capacity of approximately 1,000 gal/min, 1.65 million gallons of storage
20 capacity, booster pumps, pressure tanks, and a distribution system serving approximately 1,340
21 connections.

22 11. Staff concluded that the existing production and storage can serve approximately
23 1,725 connections. AWC anticipates that it will provide service to an additional 18 customers in the
24 proposed CC&N extension area at the end of five years. Therefore, Staff concluded the existing
25 system has adequate production and storage capacity to serve both the existing and proposed CC&N
26 area.

27 12. The facilities necessary to provide service to the extension area will be financed by a
28 main extension agreement.

1 13. AWC is in compliance with Arizona Department of Environmental Quality ("ADEQ")
2 and is delivering water that meets the water quality standards of the Safe Drinking Water Act.

3 14. The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic
4 maximum containment level ("MCL") in drinking water from 50 micrograms per liter ("ug/l") to 10
5 ug/l. The date for compliance with the MCL is January 23, 2006.

6 15. Staff's Report indicated that AWC's most recent lab results showed that the arsenic
7 levels in four of its wells was 7, 11, 12, and 32 ug/l. Staff stated that based on these arsenic levels
8 AWC will be required to implement a plan to address the arsenic issue and that Commission Decision
9 No. 67518 (January 20, 2005) approved an Order for AWC's arsenic related costs. AWC is currently
10 soliciting bids for the installation of arsenic removal equipment in the extension area.
11

12 16. AWC's White Tank system is located in a Phoenix Active Management Area.
13 According to Staff's Report, the Arizona Department of Water Resources reported AWC is in
14 compliance with its reporting and conservation rules.
15

16 17. According to the Utilities Division Compliance Section, AWC has no outstanding
17 compliance issues.

18 18. AWC will provide water utility service to the customers in the extension area under its
19 current authorized rates and charges for the White Tank system.

20 19. AWC holds a franchise agreement with Maricopa County for the extension area.

21 20. Staff's recommendations in Findings of Fact Nos. 6 and 8 are reasonable.

22 21. Because an allowance for the property tax expense of the Company is included in the
23 Company's rates and will be collected from its customers, the Commission seeks assurances from the
24 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing
25 authority. It has come to the Commission's attention that a number of water companies have been
26 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,
27 some for as many as twenty years. It is reasonable, therefore, that as a preventive measure the
28

1 Company shall annually file, as part of its annual report, an affidavit with the Utilities Division
2 attesting that the company is current in paying its property taxes in Arizona.

3 **CONCLUSIONS OF LAW**

4 1. AWC is a public service corporation within the meaning of Article XV of the Arizona
5 Constitution and A.R.S. § 40-281 *et seq.*

6 2. The Commission has jurisdiction over AWC and the subject matter of the application.

7 3. Notice of the application was provided in accordance with law.

8 4. There is a public need and necessity for water utility services in the proposed extension
9 area.

10 5. AWC is a fit and property entity to receive an extension of its water Certificate which
11 encompasses the area more fully described in Exhibit A attached hereto.

12 6. Staff's recommendations in Findings of Fact Nos. 6 and 8 are reasonable and should be
13 adopted.

14 **ORDER**

15 IT IS THEREFORE ORDERED that the application of Arizona Water Company for an
16 extension of its Certificate of Convenience and Necessity to include the area described in Exhibit A,
17 attached hereto and incorporated herein by reference, is hereby granted subject to compliance with
18 the following ordering paragraphs.

19 IT IS FURTHER ORDERED that Arizona Water Company shall file with Docket Control, as
20 a compliance item in this docket, a copy of the Approval to Construct for the extension facilities
21 within two years from the date of the Decision in this matter.

22 IT IS FURTHER ORDERED that Arizona Water Company shall charge the customers in the
23 area more fully described in Exhibit A, its existing White Tank system rates and charges until further
24 ordered by the Commission.

25 IT IS FURTHER ORDERED that Arizona Water Company shall file with Docket Control, as
26 a compliance item in this docket, copies of the Developer's Assured Water Supply for the extension
27 area, where applicable or when required by statute, within two years from the date of the Decision in
28 this matter.

1 IT IS FURTHER ORDERED that Arizona Water Company shall file with Docket Control as
2 a compliance item in this docket, the main extension agreement within two years from the date of the
3 Decision in this matter.

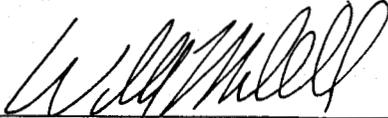
4 IT IS FURTHER ORDERED that in the event Arizona Water Company fails to meet the
5 above conditions within the time specified, this Decision is deemed null and void.

6 IT IS FURTHER ORDERED that Arizona Water Company shall annually file as part of its
7 annual report, an affidavit with the Utilities Division attesting that the Company is current in paying
8 its property taxes in Arizona.

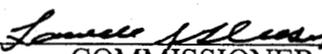
9 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

11 
12 CHAIRMAN

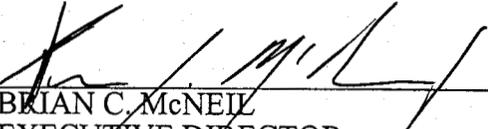

13 COMMISSIONER

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15 COMMISSIONER


15 COMMISSIONER


15 COMMISSIONER

17 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
18 Director of the Arizona Corporation Commission, have
19 hereunto set my hand and caused the official seal of the
20 Commission to be affixed at the Capitol, in the City of Phoenix,
21 this 14th day of NOV., 2005.


21 BRIAN C. McNEIL
22 EXECUTIVE DIRECTOR

23 DISSENT _____

25 DISSENT _____

1 SERVICE LIST FOR:

ARIZONA WATER COMPANY

2 DOCKET NO.:

W-01445A-05-0381

3

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EXHIBIT A

CC&N This Application

The Northwest quarter of Section 10, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

EXCEPT any portion lying North of the North Right-Of-Way line of the Roosevelt Irrigation District Canal; said line described as follows:

Commencing at the West quarter corner of said Section 10;
Thence North 00 Degrees 01 Minutes 00 Seconds West, coincident with the West line of said Section 10, a distance of 1294.02 feet to a point on said North Right-Of-Way line and the POINT OF BEGINNING of said described line;
Thence North 62 Degrees 55 Minutes 36 Seconds East, coincident with said North Right-Of-Way line, a distance of 2939.43 feet to a point on the East line of said Northwest quarter and the TERMINUS of said described line.