

ORIGINAL



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MEMORANDUM

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TO: Docket Control
Arizona Corporation Commission

FROM: Ernest G. Johnson
EGJ Director
Utilities Division

Date: November 21, 2005

RE: SUPPLEMENTAL STAFF REPORT FOR THE APPLICATION FOR THE
TRANSFER OF WEST PHOENIX WATER COMPANY'S CERTIFICATE OF
CONVENIENCE AND NECESSITY TO THE WATER UTILITY OF
GREATER TONOPAH (DOCKET NO. W-02450A-05-0430)

Attached is the Supplemental Staff Report addressing certain issues as ordered by
Procedural Order dated October 12, 2005.

EGJ:LAJ:red

Originator: Linda A. Jaress

Attachment: Original and 13 Copies

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Service List for: Water Utility of Greater Tonopah, Inc.
Docket No. W-02450A-05-0430

Mr. William P. Sullivan
Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.
2712 North Seventh Street
Phoenix, Arizona 85006-1090

Mr. J. John Mihlik
Water Utility of Greater Tonopah, Inc.
3800 North Central Avenue, Suite 700
Phoenix, Arizona 85012

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

SUPPLEMENTAL STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

WATER UTILITY OF GREATER TONOPAH, INC.
DOCKET NO. W-02450A-05-0430

APPLICATION FOR EXTENSION
OF EXISTING CERTIFICATE OF
CONVENIENCE & NECESSITY

NOVEMBER 21, 2005

STAFF ACKNOWLEDGMENT

The Supplemental Staff Report for Water Utility of Greater Tonopah, Inc., Docket No. W-02450A-05-0430 was prepared by the Staff members signed below. Linda Jaress prepared the Supplemental Staff Report.

A handwritten signature in black ink that reads "Linda A. Jaress". The signature is written in a cursive style with a large initial 'L'.

Linda A. Jaress
Executive Consultant

EXECUTIVE SUMMARY
WATER UTILITY OF GREATER TONOPAH, INC.
DOCKET NO. W-02450A-05-0430

On June 10, 2005, the Water Utility of Greater Tonopah ("Greater Tonopah" or "the Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for the transfer of the Certificate of Convenience and Necessity ("CC&N") of West Phoenix Water Company ("West Phoenix") to Greater Tonopah. Greater Tonopah operates 7 individual water systems serving a total of 214 customers.

A Staff Report was filed on August 17 in which Staff recommended a nunc pro tunc entry to Decision No. 54419 to resolve the docket, or, in the alternative, approval subject to conditions. An evidentiary hearing was held on September 12, 2005. After the hearing, on October 3, 2005, an application for intervention in the case was filed by Sierra Negra Ranch, LLC ("Sierra"). On October 5, 2005, Sierra filed a supplement to its application to intervene. Sierra's application to intervene has not been approved.

However, on October 12, 2005, the Hearing Division issued a Procedural Order in this docket suspending the time clock and ordering Greater Tonopah to respond to Sierra's application. It also ordered Staff to "docket, by November 21, 2005, a supplemental Staff Report addressing the issues raised in Sierra's Application to Intervene...and [the Company's] Response to Sierra." This supplemental Staff Report is being filed in compliance with that Order.

On June 10, 2005, the Water Utility of Greater Tonopah ("Greater Tonopah" or "the Company") filed an application for a transfer of the remaining portion of the Certificate of Convenience and Necessity ("CC&N") of West Phoenix Water Company ("West Phoenix") to Greater Tonopah. Greater Tonopah operates 7 individual water systems and serves approximately 214 customers. The transfer is requested to correct an omission in an earlier transfer. The transfer area is comprised of one and one-half sections adjacent on three sides to Greater Tonopah. There are neither facilities nor customers in the area at issue.

An evidentiary hearing was held on September 12, 2005. After the hearing, on October 3, 2005, an application for intervention in the case was filed by Sierra Negra Ranch, LLC ("Sierra"). On October 5, 2005, Sierra filed a supplement to its application to intervene. Sierra's application to intervene has not been approved.

However, on October 12, 2005, the Hearing Division issued a Procedural Order in this docket suspending the time clock and ordering Greater Tonopah to respond to Sierra's application. It also ordered Staff to "docket, by November 21, 2005, a supplemental Staff Report addressing the issues raised in Sierra's Application to Intervene...and [the Company's] Response to Sierra." This supplemental Staff Report is being filed in compliance with that Order.

Sierra raised the following issues in its application:

1. Sierra claims it did not receive Greater Tonopah's mailed notice.
2. Sierra, as the owner of the majority of land in the requested transfer area, objects to its inclusion in Greater Tonopah's CC&N.
3. Sierra is concerned about Greater Tonopah's technical and financial ability to provide adequate water service.
4. Sierra believes it would be better served by an "integrated" provider of both water and sewer.
5. Sierra requests an additional hearing on the matter.

As to Sierra's claim that it did not receive Greater Tonopah's mailed notice, it admits that its representative was notified directly by Mr. Mihlik of his intention to pursue the transfer at the Commission. The Company refutes Sierra's version. Staff believes that the point of notice is now moot. Clearly, Sierra is now aware of the transfer application and has been afforded the opportunities and benefits of intervention even before receiving approval to intervene.

The geographic area at issue in this docket, except for the width of a quarter-section, is completely surrounded by Greater Tonopah's current service territory. It is unlikely that another provider would desire to serve the "land-locked" area. Although Sierra objects to its land being included in Greater Tonopah's CC&N area, neither Sierra nor any other party has come forward with a competing application.

Sierra questioned Greater Tonopah's technical and financial ability to provide adequate water service. In Decision No. 68307, dated November 14, the Commission approved Greater Tonopah's application to extend its CC&N to ultimately serve approximately 6,000 connections on 2,000 acres in the Hassayampa Ranch master-planned community ("Hassayampa"). Clearly, the Commission, along with the developer requesting service, has already deemed Greater Tonopah a fit and proper entity to provide service and further vetting of technical and financial ability is unnecessary. Also, analysis specific to the West Phoenix area in question would not be germane as there is no proposed subdivision or water system with associated costs to form the basis of the analysis.

Regarding Sierra's preference for service from an "integrated" utility, Sierra has not presented any evidence as to whether or not it would be in the public interest for an "integrated" utility to serve this particular area. No integrated utility has come forward to request to serve this area. Staff acknowledges that there may be benefits associated with integrated utility service but this should be determined on a case by case basis. Also, the record supporting Decision No. 68307, clearly reflects the fact that a company unaffiliated with the water company would be providing wastewater service in the nearby Hassayampa extension area.

Sierra's supplemental application asserts that its intervention "will not unduly broaden the issues already being considered in this matter." The issues raised in the Staff Report and at the hearing were related to compliance (as an indication of "fit and proper") and the error made in the West Phoenix transfer. Adding Sierra's five issues listed above would certainly unduly broaden the issues.

Finally, Staff maintains its initial position that the area in question was not included in the 1985 transfer of West Phoenix Water Company assets to Greater Tonopah due to a clerical mistake and that this docket should correct that error. Staff believes that the mistake can and should be corrected in this docket.