

OPEN MEETING ITEM



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ORIGINAL



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

ARIZONA CORPORATION COMMISSION

22

DATE: December 16, 2005

DOCKET NO: W-02451A-05-0615

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:

WATER UTILITY OF GREATER BUCKEYE, INC.

(FINANCING)

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:

DECEMBER 27, 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:

JANUARY 24 AND 25, 2006

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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2005 DEC 16 P 4: 21

AZ CORP COMMISSION  
DOCUMENT CONTROL

BRIAN C. McNEIL  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

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

IN THE MATTER OF THE APPLICATION OF  
WATER UTILITY OF GREATER BUCKEYE, INC.  
FOR AUTHORITY TO ISSUE DEBT.

DOCKET NO. W-02451A-05-0615

DECISION NO. \_\_\_\_\_

**ORDER**

Open Meeting  
January 24 and 25, 2006  
Phoenix, Arizona

**BY THE COMMISSION:**

On August 24, 2005, Water Utility of Greater Buckeye, Inc. ("Applicant") filed with the Arizona Corporation Commission ("Commission") an application requesting authorization to issue long-term debt to the Water Infrastructure Financing Authority ("WIFA") in an amount not to exceed \$165,000.

On October 19, 2005, Applicant filed certification that it had provided notice of the application by publishing in a newspaper of general circulation.

On November 23, 2005, the Commission's Utilities Division Staff ("Staff") filed its Staff Report, recommending approval of the application.

\* \* \* \* \*

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. Pursuant to authority granted by the Commission, Applicant is an Arizona corporation that provides water service to approximately 500 customers in and around Buckeye, Maricopa County, Arizona.

1           2.       On August 24, 2005, Applicant filed with the Commission an application requesting  
2 authorization to issue long-term debt to WIFA in an amount not to exceed \$165,000.

3           3.       On October 19, 2005, Applicant filed certification that it caused notice of the  
4 application to be published in the *West Valley View*, a newspaper of general circulation in Avondale,  
5 Buckeye, Goodyear, Litchfield Park and Tolleson, Arizona.

6           4.       Applicant's request for issuance of debt arises from rules established by the United  
7 States Environmental Protection Agency ("EPA") that require the maximum contaminant level for  
8 arsenic in potable water to be reduced from 50 parts per billion ("ppb") to 10 ppb, effective January  
9 23, 2006.

10          5.       The proposed financing will be used for the construction of a water treatment plant to  
11 remove arsenic from Applicant's water system in order to meet the EPA and Arizona Department of  
12 Environmental Quality ("ADEQ") January 23, 2006 deadline for compliance.

13          6.       On November 23, 2005, Staff filed its Staff Report, recommending approval of the  
14 application.

15          7.       Staff stated that it examined the construction plans and estimated costs for Applicant's  
16 water treatment project and found them to be reasonable and appropriate.

17          8.       Staff stated that the proposed financing is for a 20-year loan which is to be amortized  
18 at an estimated interest rate of 5.2 percent.

19          9.       Staff performed an analysis of Applicant's financial statements for the twelve-month  
20 period ended December 31, 2004. Staff accepted only the Applicant's projections that pertain to the  
21 operation of the arsenic treatment plant for its analysis.

22          10.       As of December 31, 2004, Applicant's capital structure consisted of 3.62 percent  
23 short-term debt, 67.14 percent long-term debt, and 29.24 percent equity.

24          11.       Staff's analysis showed that if Applicant were to draw the entire \$165,000, the result  
25 would be an unsound capital structure that would consist of approximately 3.23 percent short-term  
26 debt, 83.66 percent long-term debt, and 13.10 percent equity.

27          12.       Staff stated that it typically recommends that privately owned or investor owned  
28 utilities maintain a capital structure consisting of not less than 40.00 percent equity. However, Staff

1 evaluates several factors, including, but not limited to, the utility's access to capital, current level of  
2 debt, age of system, management's experience, the adequacy of existing or proposed rates, etc., in  
3 making determinations as to an appropriate level of equity in each individual case. In this docket  
4 Staff recommended that Applicant's equity level of approximately 30.00 percent not be reduced in  
5 the short-term.

6 13. Staff proposed financing the construction of the proposed plant with a mix of debt and  
7 equity, consistent with its recommendation to maintain a capital structure of 30.00 percent equity.  
8 Staff stated its recommendation could be achieved by financing the construction with \$50,500 of  
9 equity and \$114,500 of debt on a pro rata basis. This would result in a pro forma capital structure  
10 comprised of 2.74 percent short-term debt, 67.26 percent long-term debt and 30.00 percent equity.  
11 Staff stated that a mix of funds that uses more than \$50,500 of equity would provide greater financial  
12 strength and be preferable, and that the Applicant should be encouraged to work toward a capital  
13 structure with at least 40.00 percent equity in the long term.

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

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

23 16. Based on its analysis of the projected 2005 financial statements, Staff determined that  
24 the pro forma effect a \$114,500 loan if fully drawn would be a change to the Applicant's TIER from  
25 <0.11> to <0.06> and a lowering of the Applicant's DSC from 7.77 to 4.12. Staff concluded that the  
26 pro forma DSC ratio shows that the Applicant has adequate cash flow to meet all obligations on the  
27 Staff recommendation. However, the Applicant's TIER indicates that the Company's income is  
28 insufficient to support the proposed loan in the long term.

1           17. Staff concluded that the capital structure that would result from the incurrence of the  
2 \$114,500 proposed debt is acceptable in the short-term. However, Staff believes that this capital  
3 structure is outside the desirable range for the long-term.

4           18. Based on Staff's concerns for Applicant's long-term capital structure, Staff  
5 recommended authorizing for the Applicant to issue debt to WIFA in an amount not to exceed  
6 \$114,500.

7           19. Staff further recommended that if or when equity falls below 30.00 percent of total  
8 capital, the Applicant be prohibited from distributing more than 25.00 percent of each year's earnings  
9 or distributing assets to principals via salaries, management fees, or otherwise in excess of current  
10 levels adjusted for changes in the Consumer Price Index.

11           20. Staff further recommended that the Applicant file, as a compliance item in this docket,  
12 a plan that is acceptable to Staff, by April 30, 2006, to increase its equity to 40.00 percent of total  
13 capital.

14           21. Staff further recommended that the Applicant file for an increase in permanent rates  
15 no later than May 18, 2007, with a 2006 test year, unless the Applicant can demonstrate to Staff's  
16 satisfaction that its TIER will increase to 1.0 or greater by December 31, 2006.

17           22. Applicant seeks WIFA financing approval for arsenic treatment of two current  
18 operating well sites, Well ADWR #55-802333 (Sweetwater II) and Well ADWR #55-572657  
19 (Sonoran Ridge). The current arsenic levels of these wells are, respectively, 12 ppb and 14 ppb.  
20 Applicant plans to install FlexSorb Modular Sorption systems as water treatment systems that use  
21 ArsenX media to remove arsenic. ArsenX is a new hybrid arsenic removal media that utilizes nano-  
22 particle technology to combine iron chemistry and plastic bead durability.

23           23. A Staff engineer reviewed the Applicant's proposal and found the estimated project  
24 costs provided by the Applicant to be reasonable and appropriate. Staff further stated that no "used  
25 and useful" determination was made and no conclusions should be inferred for ratemaking or rate  
26 base purposes.

27           24. Because an allowance for the property tax expense of Applicant is included in the  
28 Company's rates and will be collected from its customers, the Commission seeks assurances from the

1 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing  
2 authority. It has come to the Commission's attention that a number of water companies have been  
3 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,  
4 some for as many as twenty years. It is reasonable, therefore, that as a preventative measure  
5 Applicant annually file, as part of its annual report, an affidavit with the Utilities Division attesting  
6 that the company is current in paying its property taxes in Arizona.

7 25. Staff's recommendations are reasonable and we will require that the Applicant file an  
8 annual certification that it is in compliance with the condition recommended by Staff in Finding of  
9 Fact No. 19.

### 10 CONCLUSIONS OF LAW

11 1. Applicant is a public service corporation within the meaning of Article XV of the  
12 Arizona Constitution and A.R.S. §§ 40-285, 40-301 and 40-302.

13 2. The Commission has jurisdiction over Applicant and the subject matter of the  
14 application.

15 3. Notice of the application was given in accordance with the law.

16 4. The financing approved herein is for lawful purposes within Applicant's corporate  
17 powers, is compatible with the public interest, with sound financial practices, and with the proper  
18 performance by Applicant of service as a public service corporation, and will not impair Applicant's  
19 ability to perform that service.

20 5. The financing approved herein is for the purposes stated in the application and is  
21 reasonably necessary for those purposes, and such purposes are not, wholly or in part, reasonably  
22 chargeable to operating expenses or to income.

### 23 ORDER

24 IT IS THEREFORE ORDERED that the application of Water Utility of Greater Buckeye, Inc.  
25 for authority to issue long-term debt to the Water Infrastructure Financing Authority in an amount not  
26 to exceed \$114,500 is hereby approved subject to the condition that if or when equity falls below  
27 30.00 percent of total capital, Water Utility of Greater Buckeye is prohibited from distributing more  
28 than 25.00 percent of each year's earnings or distributing assets to principals via salaries,

1 management fees, or otherwise in excess of current levels, adjusted for changes in the Consumer  
2 Price Index.

3 IT IS FURTHER ORDERED that Water Utility of Greater Buckeye, Inc. shall file  
4 certification within 365 days of this Decision, and annually thereafter, with the Commission's Docket  
5 Control, as a compliance item in this docket, that it is in compliance with the equity and earnings  
6 recommendation of Staff as set forth in Finding of Fact No. 19, above.

7 IT IS FURTHER ORDERED that Water Utility of Greater Buckeye, Inc. shall file, as a  
8 compliance item in this docket, a plan that is acceptable to Staff, by May 1, 2006, to increase its  
9 equity to 40.00 percent of total capital.

10 IT IS FURTHER ORDERED that Water Utility of Greater Buckeye, Inc. shall file for an  
11 increase in permanent rates no later than May 18, 2007, with a 2006 test year, unless the Water  
12 Utility of Greater Buckeye, Inc. can demonstrate in its May 1, 2006 filing to Staff's satisfaction that  
13 its times interest earned ratio will increase to 1.0 or greater by December 31, 2006.

14 IT IS FURTHER ORDERED that Water Utility of Greater Buckeye, Inc. is hereby authorized  
15 to issue equity to complement its borrowings to obtain funds for the arsenic removal water treatment  
16 plant to the extent that total borrowings and equity issuances do not exceed the total plant cost and  
17 that the Water Utility of Greater Buckeye, Inc. issue no less than \$1.00 of equity for each \$2.27 of  
18 additional debt.

19 IT IS FURTHER ORDERED that Water Utility of Greater Buckeye, Inc. is hereby authorized  
20 to engage in any transactions and to execute any documents necessary to effectuate the authorization  
21 granted herein.

22 IT IS FURTHER ORDERED that such authority is expressly contingent upon Water Utility  
23 of Greater Buckeye, Inc.'s use of the proceeds for the purposes set forth in its application.

24 IT IS FURTHER ORDERED that approval of the financing set forth herein does not  
25 constitute or imply approval or disapproval by the Commission of any particular expenditure of the  
26 proceeds derived thereby for purposes of establishing just and reasonable rates.

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IT IS FURTHER ORDERED that Water Utility of Greater Buckeye, Inc. shall file with the Commission, as a compliance item in this docket, copies of all executed financing documents within 60 days after the transactions are completed.

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

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 \_\_\_\_\_, 2006.

\_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

AB:mj

1 SERVICE LIST FOR: WATER UTILITY OF GREATER BUCKEYE, INC.

2 DOCKET NO.: W-02451A-05-0615

3 William P. Sullivan  
4 CURTIS, GOODWIN, SULLIVAN, UDALL & SCHWAB  
5 2712 North Seventh Street  
6 Phoenix, AZ 85006

7 John Mihlik  
8 WATER UTILITY OF GREATER BUCKEYE, INC.  
9 3800 North Central Avenue, Ste. 770  
10 Phoenix, AZ 85012

11 Christopher Kempley, Chief Counsel  
12 Legal Division  
13 ARIZONA CORPORATION COMMISSION  
14 1200 West Washington Street  
15 Phoenix, Arizona 85007

16 Ernest G. Johnson, Director  
17 Utilities Division  
18 ARIZONA CORPORATION COMMISSION  
19 1200 West Washington Street  
20 Phoenix, Arizona 85007

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