

Decision filed

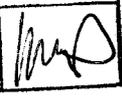


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BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKETED

1
2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER
5

DEC 28 2001

DOCKETED BY 

6 IN THE MATTER OF THE APPLICATION OF
DOLAN SPRINGS WATER CO., INC., FOR THE
7 SALE OF ASSETS AND THE TRANSFER OF ITS
CERTIFICATE OF CONVENIENCE AND
8 NECESSITY TO MOUNT TIPTON WATER CO.,
INC.

DOCKET NOS. W-02105A-01-0557
W-01977A-01-0557

9 IN THE MATTER OF THE APPLICATION OF
10 MOUNT TIPTON WATER CO., INC. FOR
APPROVAL OF FINANCING.

DOCKET NO. W-02105A-01-0556

DECISION NO. 64287

OPINION AND ORDER

11
12 DATE OF HEARING: October 24, 2001
13 PLACE OF HEARING: Phoenix, Arizona
14 PRESIDING ADMINISTRATIVE
15 LAW JUDGE: Teena Wolfe
16 APPEARANCES: Mr. David Ronald, Staff Attorney, Legal Division, on
behalf of Arizona Corporation Commission Utilities
17 Division Staff.

18 **BY THE COMMISSION:**

19 On July 12, 2001, Dolan Springs Water Company, Inc. ("Dolan Springs") filed with the
20 Arizona Corporation Commission ("Commission") an application requesting approval of the sale of
21 its assets and transfer of its Certificate of Convenience and Necessity ("CC&N") to Mount Tipton
22 Water Company ("Mt. Tipton"). Dolan Springs and Mt. Tipton are both Arizona public service
23 corporations engaged in the business of providing water utility service to the public in portions of
24 Mohave County, Arizona. Mt. Tipton operates a system consisting of four wells and four storage
25 tanks serving 646 customers. Dolan Springs' system consists of four wells, six storage tanks, and
26 two booster pumps, serving 154 customers.

27 Also on July 12, 2001, Mt. Tipton filed an application with the Commission requesting
28 approval of a loan from the Water Infrastructure Financing Authority ("WIFA") in the amount of

\$880,000. Mt. Tipton's financing application states that it plans to use the proceeds of the requested loan in order to purchase the water utility assets of Dolan Springs.

On August 3, 2001, the Commission's Utilities Division Staff ("Staff") filed a Motion to Consolidate these two related matters. By Procedural Order issued on September 14, 2001, these matters were consolidated and the matters were set for hearing to take place on October 24, 2001.

On October 1, 2001 Staff filed its Staff Report in these dockets recommending approval of the applications following a hearing.

The hearing was held as scheduled, at which Staff appeared and testified in support of its recommendations in the Staff Report.

* * * * *

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

FINDINGS OF FACT

1. Dolan Springs is an investor-owned Arizona public service corporation engaged in the business of providing water utility service to the public pursuant to authority granted in Commission Decision No. 38173 (November 15, 1965).

2. Mt. Tipton is a nonprofit Arizona public service corporation engaged in the business of providing water utility service to the public pursuant to authority granted in Commission Decision No. 40644 (May 26, 1970).

3. Both Dolan Springs and Mt. Tipton are located in the community of Dolan Springs, approximately 40 miles northwest of Kingman in Mohave County, Arizona, and have contiguous service territories.

4. On July 12, 2001, Dolan Springs filed with the Commission an application requesting approval of the sale of its assets and transfer of its CC&N to Mt. Tipton.

5. On July 12, 2001, Mt. Tipton filed an application with the Commission requesting approval of a loan from WIFA in the amount of \$880,000 for the purpose of acquiring the assets of Dolan Springs. Mt. Tipton's application also requested cancellation of the \$1,200,000 financing authority that the Commission granted Mt. Tipton in Decision No. 60988 (July 15, 1998).

6. On August 3, 2001, Staff filed a Motion to Consolidate the related applications of Dolan Springs and Mt. Tipton.

7. On September 14, 2001, the Commission issued a Procedural Order consolidating Dolan Springs' and Mt. Tipton's applications and establishing procedural deadlines in the consolidated dockets.

8. On September 28, 2001, Mt. Tipton provided by First Class U.S. Mail, notice of the hearing and information regarding intervention to the customers of Dolan Springs.

9. On October 1, 2001 Staff filed its Staff Report in these dockets recommending approval following a hearing.

10. Mt. Tipton filed certification of notice of the hearing on October 24, 2001.

11. No requests for intervention were filed.

12. No responses to the Staff Report were filed.

13. A hearing on these matters was held as scheduled on October 24, 2001. Staff appeared and presented evidence in support of its recommendations in the Staff Report. Neither Dolan Springs or Mt. Tipton appeared at the hearing.

14. Mt. Tipton has historically suffered extreme water shortages during the summer months due to lack of available well production.

15. Decision No. 60988 granted Mt. Tipton authority to borrow up to \$1,200,000 in long-term debt from WIFA and the United States Department of Agriculture – Rural Development for the purpose of funding the Detrital Well Improvements Project to increase Mt. Tipton's well production capacity.

16. Decision No. 60988 also authorized Mt. Tipton to collect non-refundable off-site facilities hook-up fees, to be treated as non-refundable advances in aid of construction, from new customers for the purpose of funding the Detrital Well Improvements Project.

17. WIFA never funded the loan for the Detrital Well Improvements Project.

18. Mt. Tipton stated in its financing application that it has collected \$13,580 in hook-up fees authorized by Decision No. 60988.

19. Decision No. 61608 (April 1, 1999) approved a water curtailment plan submitted by

Mt. Tipton and ordered Mt. Tipton to obtain new water production sources to alleviate its water production problems.

20. Decision No. 62423 (April 3, 2001) granted a request by Mt. Tipton for a moratorium on all new service connections and meter installations. Decision No. 62423 ordered that the moratorium remain in place until either: 1) Mt. Tipton obtains a new source of water supply in active production, or 2) Mt. Tipton's existing well production is restored to 1998 production levels.

21. Funds from the proposed \$880,000 WIFA loan would be used to purchase the assets of Dolan Springs and to interconnect the two water systems and increase Mt. Tipton's water production capacity.

22. The term of the proposed \$880,000 WIFA loan is 20 years, and the interest rate is 8.5 percent, to be reduced to 3.5 percent if Mt. Tipton converts to a water improvement district.

23. Mt. Tipton's acquisition of and interconnection with Dolan Springs is planned to take place in three phases: Phase 1 consists of the acquisition of Dolan Springs' assets; Phase 2 consists of the interconnection of Dolan Springs' system with Mt. Tipton's, including improvements to Dolan Springs' system; and Phase 3 is the formation of a water improvement district.

24. Staff has reviewed the feasibility study, conducted by Mohave Engineering Associates under WIFA's authority, of the proposed acquisition and interconnection, and Staff has found the costs of the acquisition and interconnection plan to be appropriate. Staff's review did not include any analysis for a used and useful determination of the proposed acquisition and interconnection for ratemaking purposes.

25. Mt. Tipton's current capital structure consists of approximately 40 percent debt and 60 percent equity. If the proposed financing and acquisition is approved, Mt. Tipton's capital structure will consist of approximately 74 percent debt and 26 percent equity.

26. Staff estimates that the addition of the proposed \$880,000 WIFA loan to Mt. Tipton's financial picture after its acquisition of Dolan Springs will result in a Times Interest Earned Ratio ("TIER") of 1.57 and a Debt Service Coverage ("DSC") ratio of 1.03. Staff stated that although this DSC ratio is below the 1.25 that is generally preferred, it is above 1.00, indicating Mr. Tipton's ability to service the proposed debt.

27. Staff believes that the combination of the two companies, with the accompanying possibility of economies of scale and reduced administrative and operating expenses, makes the proposed financing compatible with sound financial practices and will not impair Mt. Tipton's ability to perform its duty as a public service corporation.

28. Mt. Tipton is currently delivering water that meets the water quality standards promulgated by the Arizona Department of Environmental Quality ("ADEQ").

29. Dolan Springs has failed to provide radiochemical analysis from one of its points of entry and therefore ADEQ cannot determine whether Dolan Springs is delivering water that meets ADEQ's water quality standards.

30. Dolan Springs has applied to Mohave County for the transfer of its franchise to Mt. Tipton.

31. In its Staff Report and at the hearing, Staff recommended the following:

- a. That the Commission approve Mt. Tipton's request to issue up to \$880,000 in long-term debt from WIFA for the purpose of acquiring the assets of Dolan Springs;
- b. That the Commission approve the Dolan Springs' application to transfer its CC&N to Mt. Tipton;
- c. That the Commission cancel its approval of the WIFA financing for the Detrital Well Improvements in Decision No. 60988;
- d. That the Commission allow the off-site facilities hook-up fee to remain in effect until Mt. Tipton's next rate case where its appropriateness can be reevaluated;
- e. That the Commission require Mt. Tipton to use a Test Year consisting of 12 months of historical data from the combined company for any future rate case;
- f. That if Mt. Tipton has not converted to a water improvement district by June 1, 2002, that Mt. Tipton be required to provide service under existing Mt. Tipton rates as of that date, and to notify its customers by means of a bill insert or message 30 days prior to June 1, 2002; and
- g. That if Mt. Tipton has not formed a water improvement district by December 31, 2002, that the Commission require it to file a full rate case no later than April 3, 2003, utilizing a test year ending December 31, 2002.

32. Staff's recommendations as set forth in Findings of Fact No. 31 are reasonable.

CONCLUSIONS OF LAW

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2 1. Dolan Springs and Mt. Tipton are public service corporations within the meaning of
3 Article XV of the Arizona Constitution and A.R.S. §§ 40-281, -282, -301 and -302.

4 2. The Commission has jurisdiction over Dolan Springs and Mt. Tipton and the subject
5 matter of the consolidated applications.

6 3. Notice has been provided as required by law.

7 4. Mt. Tipton is a fit and proper entity to receive Dolan Springs' CC&N.

8 5. Staff's recommendations, as set forth in Findings of Fact No. 31, should be adopted.

9 6. The financing approved herein is for lawful purposes within Mt. Tipton's corporate
10 powers, is compatible with the public interest, with sound financial practices, and with Mt. Tipton's
11 proper performance as a public service corporation, and will not impair Mt. Tipton's ability to
12 provide water utility service to the public in its service territory.

13 7. The financing approved herein is for the purposes stated in the application and is
14 reasonably necessary for those purposes, and such purposes are not, wholly or in part, reasonably
15 chargeable to operating expenses or to income.

16 8. Commission approval of the financing request does not imply any used and useful
17 determination, and no conclusions should be inferred therefrom for ratemaking purposes.

18 **ORDER**

19 IT IS THEREFORE ORDERED that the application of Dolan Springs Water Company, Inc.
20 to transfer its Certificate of Convenience and Necessity and to sell its assets to Mount Tipton Water
21 Company, Inc. is hereby approved, contingent upon the Dolan Springs Water Company, Inc. filing
22 documentation with the Commission's Utilities Division Director demonstrating that the sale of its
23 assets to Mount Tipton Water Company, Inc., has been completed, and contingent upon Mount
24 Tipton Water Company, Inc. obtaining a Mohave County Franchise for the Dolan Springs Water
25 Company, Inc. service territory.

26 IT IS FURTHER ORDERED that the application of Mount Tipton Water Company, Inc. to
27 cancel the \$1,200,000 financing authorized by Commission Decision No. 60988 (July 15, 1998) is
28 hereby approved.

Decision No. 64287

1 IT IS FURTHER ORDERED that the application of Mount Tipton Water Company, Inc. for
2 approval of WIFA financing in the amount of \$880,000 for a term of 20 years and at an interest rate
3 not to exceed 8.5 percent is hereby granted.

4 IT IS FURTHER ORDERED that Mount Tipton Water Company, Inc. is hereby authorized to
5 engage in any transactions and to execute any documents necessary to effectuate the financing
6 authorization granted herein.

7 IT IS FURTHER ORDERED that such authority is expressly contingent upon Mount Tipton
8 Water Company, Inc.'s use of the proceeds for the purposes set forth in the application.

9 IT IS FURTHER ORDERED that approval of the financing as requested does not constitute
10 or imply approval or disapproval by the Commission of any particular expenditure of the financing
11 proceeds for purposes of establishing just and reasonable rates.

12 IT IS FURTHER ORDERED that Mount Tipton Water Company, Inc. shall file copies of all
13 executed financing documents setting forth the terms of the financing with the Commission's Utilities
14 Division Director within 30 days of obtaining the requested financing.

15 IT IS FURTHER ORDERED that Mount Tipton Water Company, Inc. shall provide service
16 to customers in the service area of Dolan Springs Water Company at the present tariffed rates of
17 Dolan Springs Water Company until June 1, 2002 or until the planned water improvement district is
18 formed, whichever occurs first. In the event that Mount Tipton Water Company, Inc. has not been
19 converted to a water improvement district by May 31, 2002, it shall provide service to all its
20 customers as of that date under the present tariffed rates of Mount Tipton Water Company, Inc., and
21 shall notify the customers located in the present service area of Dolan Springs Water Company, Inc.
22 of the new rates by means of a bill insert or message no later than May 31, 2002.

23 IT IS FURTHER ORDERED that if Mount Tipton Water Company, Inc. has not been
24 converted to a water improvement district by December 31, 2002, it shall file a full rate case no later
25 than April 3, 2002, utilizing a test year ending December 31, 2002. The test year ending December
26 31, 2002 shall include 12 months of historical data from the combined companies.

27 IT IS FURTHER ORDERED that the application of Mount Tipton Water Company, Inc. to
28 continue the off-site facilities hook-up fee as approved in Decision No. 60988 is hereby approved,

1 except that in the rate case contemplated in the above Ordering Paragraph, Staff shall evaluate the
2 off-site facilities hook-up fee approved in Decision No 60988 and make recommendations to the
3 Commission as to whether it remains appropriate at that time.

4 IT IS FURTHER ORDERED that Mount Tipton Water Company, Inc. shall use the monies
5 collected from the off-site facilities hook-up fee approved in Decision No. 60988 for capital
6 improvements required to serve new customers.

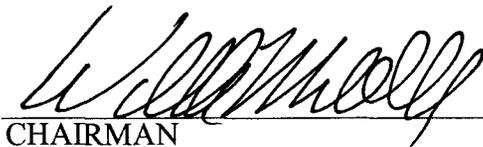
7 IT IS FURTHER ORDERED that Mount Tipton Water Company, Inc. shall continue to
8 submit to the Commission's Utilities Division Director the annual report required by Decision No.
9 60988 regarding the collection and use of the off-site facilities hook-up fees.

10 IT IS FURTHER ORDERED that Mount Tipton Water Company, Inc. shall fulfill the
11 customer metering service line refunding obligations of Dolan Springs Water Company, Inc. on the
12 same terms entered into by Dolan Springs Water Company, Inc.

13 IT IS FURTHER ORDERED that Mount Tipton Water Company, Inc. shall not interconnect
14 the Mount Tipton Water Company, Inc. and Dolan Springs Water Company, Inc., systems until such
15 time that it has filed documentation with the Commission's Utilities Division Director demonstrating
16 that both of the present water systems are delivering water that meets the water quality standards
17 promulgated by the Arizona Department of Environmental Quality.

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

19 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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22 CHAIRMAN

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22 COMMISSIONER

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22 COMMISSIONER

23 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
24 Secretary of the Arizona Corporation Commission, have
25 hereunto set my hand and caused the official seal of the
26 Commission to be affixed at the Capitol, in the City of Phoenix,
27 this 28th day of December, 2001.

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27 BRIAN C. McNEIL
28 EXECUTIVE SECRETARY

27 DISSENT _____
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SERVICE LIST FOR:

DOLAN SPRINGS WATER CO., INC. and MOUNT
TIPTON WATER CO., INC.

DOCKET NOS.

W-02105A-01-0557, W-01977A-01-0557 and W-
02105A-01-0556

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