ORIGINAL
EXCEPTION
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0000039773

BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF THE APPLICATION OF PALO VERDE UTILITIES COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.	Docket No. SW-03575A-05-0307
IN THE MATTER OF THE APPLICATION OF SANTA CRUZ WATER COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.	Docket No. W-03576A-05-0307

EXCEPTIONS OF
PALO VERDE UTILITIES COMPANY
AND SANTA CRUZ WATER COMPANY

Palo Verde Utilities Company and Santa Cruz Water Company (collectively, "Global") respectfully submit these Exceptions to the Recommended Opinion and Order ("ROO") in this docket.

I. INTRODUCTION.

The ROO is thorough, comprehensive and well-reasoned. Global greatly appreciates the ROO's recommendation that it be granted an extension of its Certificate of Convenience and Necessity ("CC&N") for the requested area. In this regard, the ROO is another step forward in providing efficient and regionally-planned water and wastewater services for this rapidly growing portion of Pinal County. However, Global respectfully requests that the Commission make two modifications to the ROO. First, Global requests that the requirement for filing of Main Extension Agreements (MXAs) be modified to be more practical. Second, Global requests that a factual error concerning the availability of arsenic information be remedied.

II. THE MXA REQUIREMENT SHOULD BE MODIFIED.

The ROO notes that Staff recommended that Santa Cruz file fully executed MXAs for the water facilities in the extension area within 365 days of a Decision in this matter. (ROO at 3). The ROO also notes that Global requested that the MXAs be filed as they become available. (*Id.*). The ROO adopts Staff's recommendation. (*Id.* at 6).

Global submits that Staff's recommendation is not practical in light of the large size of the extension area and the numerous developers involved. Staff's recommendation is a standard recommendation that is appropriate in more typical CC&N cases which involve smaller areas and fewer (often only one) developer(s). Here, the extension area is relatively large. It comprises approximately 12.5 square miles, and approximately 8,230 acres. (*Id.* at 3). The proposed extension area includes several master planned communities, which will include approximately 28,000 lots. (*Id.*). There are more than 20 developers in the extension area. (Ex. A-1 at Ex. 1; Tr. at 13). Further, sometimes the developer does not directly sign the MXA, and instead transfers the land to one or more builders, who then sign the MXAs. (Tr. at 16:8-19). Thus it is likely that there will be more than 20 MXAs for the extension area. It is vital to remember that all landowners in the area signed requests for service from Global – there is no dispute that these landowners want service from Global. The difficulty arises from the timing of development in such a large area and the difficulty of coordinating a very high number of MXAs with developers who are each on different timelines. Even with Global's best efforts, it may not be possible to finalize all of the MXAs within one year. In short, this requirement is not practical in this case.

The requirement to file all MXAs within one year was not developed in the context of this case, and does not fit here. It is simply not practical. Thus, this requirement should be modified to fit the facts of this case. Global requests that only the Phase I MXAs be due within one year, and that the remainder of the MXAs be due by December 31, 2009. These revised deadlines are similar to the deadlines for submitting Approvals to Construct. Moreover, any "null and void" effects of failing to file MXAs should apply only to the area covered by the missing MXA, and not

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to other areas that timely submitted a MXA. Suggested language implementing this revision is attached as Exhibit A for the Commission's consideration.

III. GLOBAL SUBMITTED ARSENIC INFORMATION.

The ROO states that "there are no arsenic results for the wells that will be used in the proposed system." (ROO at 5:18-19). This is not correct. In Global's Comments to the Staff Report, Global submitted a chart showing Arsenic test data for the three proposed wells. (Ex. A-6 at 1). The data from this chart is reproduced below:

Well #	Flow (gpm)	Arsenic (mg/L)
55-612402	250	0.009
55-612246	250	0.004
55-612247	1500	0.0007
Total	2000	0.0007

(*Id.*). Each well is below the new arsenic MCL. Further, Global will be constructing a blending system to meet other MCLs. (Tr. at 31). This system could be also be used to meet the arsenic MCL if the arsenic levels of any of these wells rises. Further, Global is pursuing options for obtaining and treating surface water, which is low in arsenic.

Arsenic levels were also addressed at the hearing. Global's Vice President of Operations and Compliance, Mr. Symmonds, testified that "the wells that we have identified have come up below the MCL for arsenic." (Tr. at 31:2-4) Mr. Symmonds addressed arsenic again later in the hearing. (Tr. at 37-38).

Global presented arsenic data for the wells in its proposed system, both in the transcript and in Exhibit A-6. Therefore, the ROO's statement that this data was not provided is inaccurate. Thus, the ROO should be modified to state that Global presented information showing that the wells will meet the new federal arsenic requirements. Suggested language implementing this revision is attached as Exhibit B for the Commission's consideration.

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IV. CONCLUSION.

Global appreciates that the ROO recommends granting the CC&N extension. However, for the above reasons, Global respectfully requests that the Commission amend the ROO by making the two modifications described above.

RESPECTFULLY submitted this 18th day of January 2006.

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Exhibit A

Suggested Language to Amend MXA Filing Requirement

(1) Page 6, line 27 (Finding of Fact No. 22): INSERT after "reasonable", the following: ", except that: (1) we will modify the due date for submitting MXAs as follows: Phase I MXAs will be due within 365 days of the effective date of this order and the remaining MXAs will be due by December 31, 2009; (2) the CC&N extension will be considered null and void due to the failure to file main extension agreements only for those areas for which Santa Cruz did not submit fully executed main extension agreements. The CC&N extension granted herein shall remain in effect for all areas for which Santa Cruz did file fully executed main extension agreements, notwithstanding the failure to file fully executed main extension agreements for any other area."

(2) Page 10, line 3 (Conclusion of Law No. 6): INSERT after "herein," the following: "as modified by Finding of Fact No. 22,"

(3) Page 10, lines 16-17 (3rd Ordering Paragraph): INSERT after "water facilities for" the following: "Phase I of"

(4) Page 10, lines 16-17 (3rd Ordering Paragraph): INSERT after "Decision" the following: "and all remaining fully executed main extension agreements for water facilities for the extension area shall be filed by December 31, 2009"

(5) Page 11, line 27 (13th Ordering Paragraph): INSERT after "null and void", the following: ", except that the CC&N extension will be considered null and void due to the failure to file main extension agreements only for those areas for which Santa Cruz did not submit fully executed main extension agreements. The CC&N extension granted herein shall remain in effect for all areas for which Santa Cruz did file fully executed main extension agreements, notwithstanding the failure to file fully executed main extension agreements for any other area."

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Exhibit B

Suggested Language to Amend Incorrect Factual Statement Concerning Arsenic

(1) Page 5, lines 18-19 (Finding of Fact 16): DELETE "Currently, there are no arsenic results for the wells that will be used for the proposed system" and INSERT "Santa Cruz submitted testimony that the wells that will be used for the proposed extension area have arsenic levels below the new arsenic MCL"