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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

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IN THE MATTER OF THE APPLICATION OF  
ARIZONA WATER COMPANY FOR AN  
EXTENSION OF ITS EXISTING CERTIFICATE  
OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01445A-05-0389

DECISION NO. 68442

OPINION AND ORDER

DATE OF HEARING: November 29, 2005  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
APPEARANCES: Robert Geake, Vice President and General Counsel, on behalf of Arizona Water Company; and  
Diane Targovnik and Linda Fisher, Staff Attorneys, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On May 31, 2005, Arizona Water Company ("Company" or "Applicant"), filed an application for an extension of its Certificate of Convenience and Necessity ("Certificate") with the Arizona Corporation Commission ("Commission") to provide public water utility service to various parts of the City of Coolidge ("City"), Pinal County, Arizona.

On June 13, 2005, the Commission's Utilities Division ("Staff") issued a notice of deficiency that the application had not met the sufficiency requirements of A.A.C. R14-2-411(C).

On August 25, 2005, Staff issued notice that the application had met the sufficiency requirements of A.A.C. R14-2-411(C).

On August 26, 2005, by Procedural Order, a hearing was scheduled for November 29, 2005 and other dates were set for publication of notice and procedural filing by parties to the proceeding.

On October 24, 2005, Staff filed its Staff Report.

On November 1, 2005, the Company filed its Objections to the Staff Report.

1 On November 29, 2005, a full public hearing was convened before a duly authorized  
2 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Company and  
3 Staff appeared with counsel. At the conclusion of the hearing, the matter was taken under  
4 advisement pending submission of a Recommended Opinion and Order to the Commission.

5 \* \* \* \* \*

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

8 **FINDINGS OF FACT**

9 1. Pursuant to authority granted by the Commission, the Company is an Arizona  
10 corporation which is engaged in the business of providing water service to approximately 75,000  
11 customers in portions of Gila, Navajo, Cochise, Maricopa, Pima, Yavapai, Coconino and Pinal  
12 Counties, Arizona.

13 2. On May 31, 2005, the Company filed an application for an extension of its Certificate  
14 for its Coolidge system<sup>1</sup> in portions of Pinal County and in the City to provide service to three parcels  
15 of land totaling 640 acres which are described in Exhibit A, attached hereto and incorporated herein  
16 by reference.

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

18 4. On October 24, 2005, Staff filed its Staff Report recommending conditional approval  
19 of the application following a hearing.

20 5. The Company has been requested to provide water service to the three parcels by the  
21 land owners. The three parcels are adjacent to Applicant's existing certificated service area in Pinal  
22 County and in the City. Parcel One on Exhibit A is owned by Skousen & Highway 87, L.L.C., Parcel  
23 Two on Exhibit A is owned by several individuals and Lorensen Land and Cattle and Parcel Three on  
24 Exhibit A is owned by Vail 160, L.L.C. Parcels One and Three will be developed as residential  
25 subdivisions. Parcel Two will be sold off as one acre or larger residential lots.

26 6. Applicant projects future customer growth in the extension areas will result in  
27

28 <sup>1</sup> Applicant currently provides water service to approximately 3,545 customers on its Coolidge system which is part of the Company's Western Group of operating systems.

1 approximately 1,050 new customers at build-out.

2 7. The Company's Coolidge system has ample backbone plant to serve the extension  
3 areas described in Exhibit A.

4 8. To serve the requested areas, the Company will enter into main extension agreements  
5 with the respective developers and connect its existing distribution system to new transmission and  
6 distribution mains constructed with refundable advances paid by the developers.

7 9. The Company will submit, for Staff approval, copies of the main extension  
8 agreements which have not yet been finalized to cover the cost of the three projects of approximately  
9 \$528,000 financed through refundable advances which the respective developers. The Company  
10 expects to refund the developers 10 percent of the water revenues derived from the respective  
11 subdivision mains for 10 years.

12 10. No other municipal or public service corporations provide water service in the  
13 proposed service areas described in Exhibit A.

14 11. The Company has both a Pinal County franchise and a City franchise which  
15 encompass the three parcels that make up the extension area.

16 12. The Company will provide service to the extension area at its existing rates and  
17 charges on file with the Commission for its Coolidge system.

18 13. Staff reviewed the water production and storage capacity of Applicant's Coolidge  
19 system and believes that it has or will have adequate facilities and the technical expertise to provide  
20 service to the requested extension areas.

21 14. According to the Staff Report, the Company is in full compliance with the rules of the  
22 Arizona Department of Environmental Quality ("ADEQ") and is providing water which meets the  
23 requirements of the Safe Drinking Water Act. Based on the record, the Company has five wells on  
24 its Coolidge system. One is out of service and after the Company learned recently that one of the  
25 four remaining wells had an arsenic level above the new 2006 arsenic maximum contaminant level  
26 ("MCL") of 10 parts per billion ("ppb"), it decided to remove this well from service when the new  
27 MCL becomes effective on January 23, 2006. The arsenic levels for the Company's remaining three  
28 large wells on its Coolidge system are below the new 2006 MCL of 10 ppb and will not require any

1 treatment to meet the new arsenic standard. In the event arsenic treatment is required for the system  
2 in the future, the Company will utilize a cost recovery method consistent with those previously  
3 approved for the Company's Northern and Eastern Groups and recently approved for the Western  
4 Group rate case in Decision No. 68302 (November 14, 2005).

5 15. The Company is current on the payment of its property taxes, and is in compliance  
6 with its operating and filing requirements which are subject to the Commission's jurisdiction.

7 16. As a result of Decision No. 66235 (July 23, 2004), the Company has a Curtailment  
8 Tariff which is utilized for all of the Company's systems.

9 17. Staff believes that there is a public need and necessity for water service to the  
10 requested extension areas and that the issuance of an extension to Applicant's Certificate is in the  
11 public interest.

12 18. Staff recommended that the Commission approve the Company's application subject  
13 to the following conditions:

- 14 • that the Company charge its existing rates and charges for its Coolidge system  
15 in the proposed extension area;
- 16 • that the Company file, within 365 days of the effective date of this Decision,  
17 with the Commission's Docket Control, as a compliance item, a copy of the  
18 respective developer's Certificate of Assured Water Supply issued by the  
19 Arizona Department of Water Resources for the areas described in Exhibit A;
- 20 • that the Company file, within 365 days of the effective date of this Decision,  
21 with the Commission's Docket Control, as a compliance item, copies of any  
22 executed main extension agreements; and
- 23 • that the Company file, within 365 days of the effective date of this Decision,  
24 with the Commission's Docket Control, as a compliance item, copies of the  
25 respective Certificates of Approval to Construct issued by the Arizona  
26 Department of Environmental Quality for the construction of mains in the three  
27 extension areas.

28 19. Staff further recommends that the Commission's approval of an extension of the  
Certificate of the Company should be rendered null and void should the Company fail to meet any of  
the above conditions within the time specified.

20. Because an allowance for the property tax expense of the Company is included in the  
Company's rates and will be collected from its customers, the Commission seeks assurances from the  
Company that any taxes collected from ratepayers have been remitted to the appropriate taxing

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

6 21. Staff's recommendations in Findings of Fact Nos. 18 and 19 are reasonable.

### 7 CONCLUSIONS OF LAW

8 1. Applicant is a public service corporation within the meaning of Article XV of the  
9 Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

10 2. The Commission has jurisdiction over the Company and the subject matter of the  
11 application.

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

13 4. There is a public need and necessity for water utility service in the proposed service  
14 areas described in Exhibit A.

15 5. Applicant is a fit and proper entity to receive an extension of its Certificate.

16 6. The application to extend the Certificate for the areas described in Exhibit A should be  
17 granted subject to the conditions set forth in Findings of Fact Nos. 18 and 19 above.

### 18 ORDER

19 IT IS THEREFORE ORDERED that the application of Arizona Water Company for an  
20 extension of its Certificate of Convenience and Necessity for the operation of a water utility in the  
21 areas more fully described in Exhibit A be, and is hereby approved, provided that Arizona Water  
22 Company complies with the conditions as set forth in Findings of Fact No. 18 hereinabove.

23 IT IS FURTHER ORDERED that in the event that Arizona Water Company does not timely  
24 file copies of the required documentation as described in Findings of Fact No. 18, then the extension  
25 of its Certificate of Convenience and Necessity shall be deemed to be null and void.

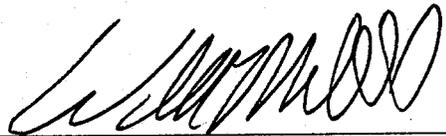
26 IT IS FURTHER ORDERED that Arizona Water Company shall charge customers in the  
27 areas described in Exhibit A its existing rates and charges for its Coolidge system.

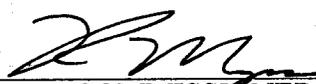
28

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

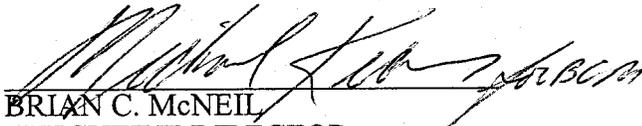
4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6  
7  CHAIRMAN  COMMISSIONER  
8

9  
10  COMMISSIONER  COMMISSIONER  COMMISSIONER  
11

12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
13 Director of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this 2<sup>nd</sup> day of Feb., 2006.

17   
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

18 DISSENT \_\_\_\_\_

19  
20 DISSENT \_\_\_\_\_

21 MES:mj

1 SERVICE LIST FOR: Arizona Water Company

2 DOCKET NO.: W-01445A-05-0389

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**PARCEL ONE**

The Southeast quarter of Section 18 of Township 5 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

**PARCEL TWO**

The South half of Section 20, Township 5 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

**PARCEL THREE**

The Southwest quarter of Section 11, Township 6 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.